

Regular Session, April 16, 2012, 7:00 p.m.
Catawba County Board of Commissioners

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The Catawba County Board of Commissioners met in regular session on Monday, April 16, 2012 at 7:00 p.m. in the Robert E. Hibbitts Meeting Room of the 1924 Courthouse, 30 North College Avenue, Newton, North Carolina.

Present were Chair Katherine W. Barnes, Vice-Chair Lynn M. Lail and Commissioners Dan A. Hunsucker, Barbara G. Beatty and Randy Isenhower.

Also present were County Manager J. Thomas Lundy, Assistant County Manager Dewey Harris, Assistant County Manager Mary Furtado, County Attorney Debra Bechtel, Counsel to the Board David Hood and County Clerk Barbara Morris.

1. Chair Katherine W. Barnes called the meeting to order at 7:00 p.m.

2. Commissioner Barbara G. Beatty led the Pledge of Allegiance to the Flag.
3. Chair Barnes offered the invocation.
4. Commissioner Beatty made a motion to approve the minutes from the Board's Regular Meeting of April 2, 2012. The motion carried unanimously.
5. Recognition of Special Guests: Chair Barnes welcomed everyone present, and specifically welcomed NAACP President Jerry McCombs, Cliff Moon, candidate for NC House of Representatives, and Commissioner candidates Steve Graves and Kevin Spiva, noting that both Barbara Beatty and Dan Hunsucker were also candidates in the upcoming election.
6. Public Comments for Items Not on the Agenda:
Mitchell Gold came forward and asked what the criteria was for an individual to get a resolution on the Board's agenda. Chair Barnes directed the question to County Attorney Debra Bechtel and she explained that anyone who wished to be heard by the Board was welcome to speak during the part of the meeting set aside for public comments for items not on the agenda. She further explained anyone could submit any documents for consideration. The Board Chair and the County Manager make the final determination concerning what will be placed on the agenda.
7. Presentations:
 - A. Drs. William Litaker and David Hamilton reported on the Mission of Mercy Free Adult Dental Clinic scheduled for July 27 and 28 at the Hickory Metro Convention Center, which will serve area residents who do not have adequate dental care. They asked for volunteers and contributions to assist in ensuring this event was a success. Vice-Chair Lynn Lail commended this effort and the partnership with community.
 - B. Vice-Chair Lail presented a proclamation to Kim Lyke Holden, Executive Director of the Partnership for Children, recognizing April 22-28, 2012 as the Week of the Young Child and encouraged all citizens to work to make a good investment in early childhood, and support the agencies who work with young children.
 - C. All Board members came forward and assisted Mr. David Nicholson, Outreach Associate with the North Carolina Association of County Commissioners, in the presentation of the Association's Outstanding County Program Award to three Catawba County programs. Both Mr. Nicholson and Chair Barnes note the County was a winner in all three categories (General Government, Human Services and Public Information/Participation) for the first time in the 21 year history of the program. Winning programs were: 1) the **Healthy Schools Recognition Program**, a partnership of Catawba County Public Health and Catawba County Health Partners' Eat Smart Move More program and received by Eat Smart Move More Chairman Phil DiCasolo, School Nurse Supervisor Rhonda Stikeleather and Health Educator Tracey Paul. The program was created in 2010-2011 as an annual initiative designed to promote healthy, sustainable policies that improve physical activity and nutrition in schools across Catawba County; 2) Catawba County Social Services' **Backpack Program for Children**, received by Social Work Program Manager Dawn Wilson and Backpack Program Manager Amanda Freeland. This program serves as an ongoing, immediate source of food for students during weekends and school breaks and provides a means of educating parents about resources in the community, including job fairs, and free, family-friendly activities via printed materials included in the backpacks; and 3) the County Technology Department's development of **QR Codes for Building Permit Placards**, received by Chief Information Officer Terry Bledsoe and Director of Utilities and Engineering Barry Edwards. QR codes are a type of barcode, or two-dimensional code, designed to be read by smart phones. The County's Building Permit QR Codes system provides building contractors and inspectors with up-to-the-minute job site and inspection information, at their fingertips, in the field.

8. Public Hearings:

a. Planner Chris Timberlake presented a request for the Board to hold a public hearing and consider a request to rezone 2.3 acres at 4695 Mountain Creek Avenue in the Sherrills Ford Small Area Planning District from PD Planned Development to HC Highway Commercial district. The subject parcel was zoned PD Planned Development and vacant. Parcels to the north are zoned R-20 Residential and developed with single-family homes. Parcels to the south and east are zoned PD Planned Development and are the location of a specialty auto parts retailer, multi-tenant office building, overhead door retailer and an unfinished building project. Parcels to the west are zoned HC Highway Commercial. One is vacant and one has an unfinished building project.

The PD Planned Development district encourages the master planning of large scale, multiple or mixed use development patterns. The HC Highway Commercial district provides for regional highway-oriented businesses, offices, services and civic uses. Applicants who propose a planned development usually have more opportunity for flexibility and creativity in design than is possible under conventional zoning regulations. However, there are some uses (auto repair, motor vehicle sales, for example) that are permitted in the HC district but are not permitted in the PD district.

The property is within the Mixed Use Corridor-Overlay district, which requires additional aesthetic standards for some facades and pedestrian improvements, and limits or provides for additional standards to some uses (such as motor vehicle sales, auto repair). In general, the overlay district provides for higher development standards along major corridors in the county and in some cases exceeds the standards for Planned Developments.

Public sewer does not currently exist along Highway 150 East. The property is proposed to be served by a private septic system. Public water is available along Highway 150 East and Mountain Creek Avenue. Highway 150 East is designated as a boulevard in the 2035 Greater Hickory Urban Area Long Range Transportation Plan. This road, designated a "strategic highway corridor", is a major east-west route between Shelby, Lincolnton and Mooresville and is recommended to be widened from two lanes to four. The State Transportation Improvement Plan contains plans for the widening of Highway 150 East to a multi-lane facility. The planning and design portion of the project is currently funded, although right-of-way acquisition and construction remain unfunded. Traffic counts taken in 2009 to the west of the site along Highway 150 East measured 10,000. Based on design and construction, the road capacity in this area is 14,200 according to the Catawba County Thoroughfare Plan. Development of the property should not overburden the existing roadway.

The Sherrills Ford Small Area Plan serves as the current land use plan for this area. Its Future Land Use Recommendations depict the property as being located in an area designated for a regional commercial center. A regional commercial center is envisioned to provide a mixture of uses such as commercial, office-institutional, and multi-family.

Staff presented a favorable recommendation to the Planning Board based on the request being consistent with the adopted small area plan; the request being in harmony with the adjacent commercial land uses; and the property being adjacent to and in close proximity to other HC Highway Commercial properties. The Planning Board held a public hearing on March 26, 2012. No one spoke concerning this request. The Planning Board voted 5-0, to submit a favorable recommendation to the Board of Commissioners to rezone the 2.3 acre parcel from PD Planned Development to HC Highway Commercial based on the reasons stated above for staff's favorable recommendation.

Chair Barnes opened the public hearing, noting it had been duly advertised. No one came forward to speak. Chair Barnes closed the public hearing. Commissioner Randy Isenhower made a motion to approve the rezoning and adopt the consistency statement. The motion carried unanimously. The following ordinance and consistency statement apply:

Ordinance No. 2012-_____

AMENDMENT TO THE CATAWBA COUNTY ZONING MAP

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS, that the Catawba County Official Zoning Atlas is hereby amended by rezoning the following described property from PD Planned Development to HC Highway Commercial.

One parcel totaling 2.3 acres located at 4695 Mtn. Creek Avenue in the Sherrills Ford Small Area Planning District, Mountain Creek Township, and further identified by Parcel Identification Number 3686-12-86-7356.

PLAN CONSISTENCY STATEMENT:

Pursuant to NCGS 153A-341, and upon consideration of the recommendations and guiding principles of the Sherrills Ford Small Area Plan, the Catawba County Board of Commissioners finds the rezoning request to be consistent with the Small Area Plan and reasonable for rezoning based upon:

- 1) The request being in harmony with the adjacent commercial land uses; and
- 2) The property is adjacent to and in close proximity to other HC Highway Commercial properties.

This, the 16th day of April 2012.

ZONING MAP AMENDMENT CONSISTENCY STATEMENT

On April 16, 2012 the Catawba County Board of Commissioners conducted a public hearing for the purpose of considering a zoning map amendment to PIN 3686-12-86-7356 (Case #RZ2012-3).

Upon considering the matter, the Catawba County Board of Commissioners finds the item to be consistent with the Sherrills Ford Small Area Plan and reasonable for rezoning based upon:

- 1) The request being in harmony with the adjacent commercial land uses; and
- 2) The property is adjacent to and in close proximity to other HC Highway Commercial properties.

The Catawba County Board of Commissioners therefore approves the zoning map amendment. This approval was affirmed by a vote of 5 - 0 of the Catawba County Board of Commissioners.

b. Planner Chris Timberlake presented a request for the Board to hold a public hearing and consider an application to rezone 10.7 acres from R-80 Residential to R-30 Residential. The property is located along the north side of Energy Lane in the Sherrills Ford Small Area Planning District. The subject parcel was zoned R-80 Residential and vacant. Lake Norman is to the north. Parcels to the south are zoned R-80 Residential, one undeveloped and one with a single-family dwelling under construction. Parcels to the east are zoned R-30 Residential, four with single family dwellings and one vacant. A parcel to the west is zoned R-80 Residential and undeveloped.

The R-80 Residential district (80,000 square foot) is a low-density (1 dwelling per 2 acres) district providing for stick-built and modular homes and agricultural uses. In comparison, the R-30 Residential district (30,000 square foot) is a medium-density (1.33 dwellings per acre) district providing for stick-built and modular homes and agricultural uses. Based on the current zoning, the property could theoretically be subdivided to create five lots. If rezoned to R-30, approximately 15 lots could be created. Because of site conditions (topography, soil type, lot frontage requirements, etc.), the applicant has designed a preliminary subdivision plan depicting only 11 lots. The property is located in a WS-IV Critical Area Watershed, which requires single-family residential lots to be a minimum of 20,000 square feet in size.

The property is proposed to be served by individual wells since the closest public water system is approximately 1.75 miles southwest on Molly's Backbone Road. The property is also proposed to be served by private septic systems. The County's Utilities and Engineering Department conducted a study to determine the feasibility of requiring a subdivision at this location to connect to the existing sewer line on Molly's Backbone Road. Estimated costs for such a system were found to be high enough (approximately \$563,000) that development of the property would be impractical if private systems were not used. Molly's Backbone Road is State maintained and classified as a local residential road. The Annual Average Daily Traffic count in 2009 along this portion of Molly's Backbone Road was 1,100 vehicles per day. The estimated road capacity for this section of road is 10,000 vehicles per day. No transportation improvements are recommended at this time. Energy Lane is also a State maintained local residential road, but no traffic counts are available at this time.

The Sherrills Ford Small Area Plan serves as the current land use plan for this area. Its Future Land Use Recommendations depict the subject property as being in an area proposed for residential use with a density of 1.33 dwelling units per acre (approximately $\frac{3}{4}$ acre or 30,000 square feet). The request is in character with lot sizes of existing developments in the area and the proposed density recommendations of the small area plan.

Staff presented a favorable recommendation to the Planning Board based on the request being consistent with the adopted small area plan, the request being in harmony with the surrounding residential land uses, and the property being adjacent to, and in close proximity to, other R-30 properties.

The Planning Board held a public hearing on March 26, 2012. Kelly Watts asked about the legal requirements for posting the property and notifying property owners of the public hearings. Greg Neil asked if the lots would each have wells and septic systems and stated that he has concerns about septic systems discharging into the lake. Todd Serdula, who represented Kasey Kahne, an adjacent property owner, asked about the proposed square footage of homes. Jeff Cernuto, the applicant, said they do not plan to develop more than 11 lots and they have hired a soil scientist to assess the soil types for septic purposes. The Planning Board voted 5-0, to submit a favorable recommendation to the Board of Commissioners to rezone the 10.7 acre parcel from R-80 Residential to R-30 Residential, based on the reasons stated above.

Chair Barnes opened the public hearing, noting it had been duly advertised. Four people (Greg Neil, Carol Myer, Max Gilleland and Kelly Watts) came forward to speak against the rezoning citing insufficient notice, septic, boat traffic, car traffic, groundwater, water depth and natural habitat concerns. The developer, an employee of the developer, a soil specialist and a neighboring businessman (Jeff Cernuto, James Strupp, Kathleen Saunders and Don Reid) came forward in support of the rezoning citing attention by the developer to all the concerns voiced by the neighboring homeowners. Chair Barnes closed the public hearing. Chair Barnes then asked County Attorney Bechtel if the notice had met Statute requirement. Ms. Bechtel said she had personally viewed the posting and reviewed the notice that had been given and both complied with the Statutes. Chair Barnes noted that rezoning the property didn't automatically give the developer the right to proceed with the project – the plans for the development would have to go before the Subdivision Review Board for approval prior to commencing the project. Ms. Bechtel stated that while it had been indicated the R-80 zoning of this property was in error in the Development Agreement, that was not the case. The Development Agreement was correct and zoned this property R-30 but the plat that had been filed had been in error as designating the property as R-80. Commissioner Hunsucker clarified that if this request was approved, the Board would be restoring the zoning that was in place in the first place in the Development Agreement and just rectifying the plat error. Commissioner Hunsucker then made a motion to approve the rezoning and adopt the consistency statement. The motion carried unanimously. The following ordinance and consistency statement applies.

Ordinance No. 2012-_____

AMENDMENT TO THE CATAWBA COUNTY ZONING MAP

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS, that the Catawba County Official Zoning Atlas is hereby amended by rezoning the following described property from R-80 Residential to R-30 Residential.

One parcel totaling 10.7 acres located at on the north side of Energy Lane in the Sherrills Ford Small Area Planning District, Catawba Township, and further identified by Parcel Identification Number 4619-01-18-1763.

PLAN CONSISTENCY STATEMENT:

Pursuant to NCGS 153A-341, and upon consideration of the recommendations and guiding principles of the Sherrills Ford Small Area Plan, the Catawba County Board of Commissioners finds the rezoning request to be consistent with the Small Area Plan and reasonable for rezoning based upon:

- 1) The request being in harmony with the surrounding residential land uses; and
- 2) Because the property is adjacent to and in close proximity to other R-30 properties.

This, the 16th day of April 2012.

ZONING MAP AMENDMENT CONSISTENCY STATEMENT

On April 16, 2012 the Catawba County Board of Commissioners conducted a public hearing for the purpose of considering a zoning map amendment to PIN 4619-01-18-1763 (Case #RZ2012-2).

Upon considering the matter, the Catawba County Board of Commissioners finds the item to be consistent with the Sherrills Ford Small Area Plan and reasonable for rezoning based upon:

- 1) The request being in harmony with the surrounding residential land uses; and
- 2) Because the property is adjacent to and in close proximity to other R-30 properties.

The Catawba County Board of Commissioners therefore approves the zoning map amendment. This approval was affirmed by a vote of 5 - 0 of the Catawba County Board of Commissioners.

9. **Consent Agenda:**

County Manager J. Thomas Lundy presented the following two items on the consent agenda:

a. A request for the Board to approve a joint grant application with the City of Hickory for a 2012 Edward Byrne Memorial Justice Assistance Grant (JAG). Catawba County's share of the grant funds, once awarded, will be \$15,706. JAG funding allocation is based on population and violent crime statistics. There is no local match required for these funds. If awarded, the funds will be used to purchase the following equipment to improve law enforcement: 1) a Universal Forensic Extractor to obtain data at crime scenes. This system can be used in the field to extract data (text, GPS, photos, call logs, contacts, memory, passwords, and deleted data) from cell phones, vehicle GPS systems and tablets. This information is essential to criminal investigations due to the wide use of wireless devices. The evidence obtained may lead to other suspects, and can be obtained during the arrest or pursuant to search warrants. 2) Handheld Through-wall Sensor to detect people through walls. This system detects slight movements (even breathing) with a range up to 50 feet through walls, floors and ceilings. It can be used in the field by SWAT Teams during a manhunt, hostage situations or stand offs, or for search and rescue in disasters, fire or other situations where fast location is critical.

b. A request for the Board to appropriate existing fund balance in the amount of \$30,000 for the Newton-Conover Rescue Squad. These funds will be used toward the purchase of a new quick response vehicle. In 2006, the County established a rescue squad equipment reserve by annually setting aside 8% of the overall rescue squad budget for the purchase of new vehicles as well as other high cost, nonrecurring expenses. Each year, funds from this reserve are allocated for vehicles scheduled to be purchased in that budget year. In fiscal year 2010-11, Newton-Conover Rescue Squad was scheduled and approved to purchase a quick response vehicle. However, the vehicle was not purchased during fiscal year 2010-11 due to difficulties with vendors listed on the State contract, so the appropriated funds reverted to fund balance. During the current fiscal year, Newton-Conover Rescue Squad obtained quotes from various dealerships and recently purchased a replacement vehicle from a local dealer.

The following appropriation applies:

<u>Revenue</u>		<u>Expense</u>	
240-260250-690100	\$30,000	240-260250-866700	\$30,000
Rescue Squad Fund Balance		Rescue Squad Equipment Reserve	

Chair Barnes asked if any Commissioner wished for an item to be broken out of the consent agenda. None were requested. Vice-Chair Lail made a motion to approve the consent agenda. The motion carried unanimously.

10. Departmental Report:

Human Resources:

Human Resources Director Cynthia Eades presented a request for Board approval of revisions to the Catawba County Personnel Code which will become effective on May 1, 2012. While the majority of these revisions involve the use of a particular term (for example, personnel v. human resources), grammatical corrections or simple clarifications, the substantial revisions provide improved guidance in the area of discipline and grievance procedures, elimination of procedures or terms that are no longer practical, and a reduction of the County's liability in the areas of overtime compensation and leave accruals. The County's Personnel Code was originally codified in 1995. The most recent codification was in 2003, when the Catawba County Code of Ordinances was reduced from 50 chapters to 44 chapters. While the Board has approved several amendments to different articles of the Personnel Code since 2003, no comprehensive review has been conducted in nine years.

The revisions include several substantial changes to the Code which include the following:

(1) definitions are updated to create three types of employees: full-time, part-time and hourly. The current Code addresses only full-time, four-fifths, and half-time employees; to address the need for organizational flexibility, it is changed to offer a much broader variety of work schedules;

(2) language is changed in the Equal Employment Opportunity (EEO) Policy to reflect an EEO Policy rather than an EEO Plan to avoid confusion with what some employers are legally required to do in the form of an official plan as defined by Equal Employment Opportunity Commission (EEOC);

(3) under Employment Compensation and Employee Performance, there are changes to require, rather than have optional, a probationary period (six months with a three month extension if needed) for employees who transfer from one department to another;

(4) under Flexible Promotions, the addition of an optional three month extension to the six month evaluation period to coincide with the length of the initial probationary period;

(5) under Resignations, state that a four week notice period for department heads, division managers and program managers may be required to be served working on-site for the entire four week period, to ensure work assignments are completed or transferred to other employees before the position is vacated;

(6) under Fair Labor Standards, changes to clarify that comp time should be used before annual leave, sick leave or leave without pay, to ensure comp time is kept to a minimum to reduce financial liability to the County;

(7) under Probationary Period, require probationary periods for transfers or promotions of employees from one department to another to ensure employees are able to satisfactorily perform their new job responsibilities;

(8) under Grievance Procedure, the entire section is rewritten to (a) combine a two-step procedure into one step, and (b) ensure the procedure met the requirements of the State Personnel Act for Social Services and Public Health employees, eliminating the need for two separate policies (the most significant change is the time period for filing an appeal – which would be changed from 7 calendar days to 15 calendar days);

(9) under Reinstatement and Transfer of Sick Leave, sick leave from another jurisdiction would not be transferred into an employee's sick leave account until successful completion of the probationary period to encourage new employees to have a consistent presence at work during their initial training period;

(10) under County Defense of Employees, language is added in the event the County Manager is personally charged, and;

(11) under State and Federal Compliance, change to a general statement of compliance with federal and state laws and add a reference to administrative policies or procedures so the Code does not need to be amended each time federal or state law changes.

The Board members commended Ms. Eades on an impressive job on revising the Personnel Code. Commissioner Isenhower confirmed that the grievance procedure was actually a one step procedure and Ms. Eades confirmed this. Vice-Chair Lail made a motion to approve the revised Personnel Code, noting it would be effective May 1, 2012. The motion carried unanimously. The following Personnel Code applies:

ARTICLE I. - IN GENERAL *

Editor's note—Ord. No. 2003-19, adopted Oct. 6, 2003, amended art. I in its entirety and enacted similar provisions as set out herein. The former art. I derived from Code 1995, §§ 270.001—270.007; and Ord. No. 2002-05, § 270.001, adopted July 8, 2002.

[Sec. 28-1. - Definitions.](#)

[Sec. 28-2. - Merit principle.](#)

[Sec. 28-3. - Responsibility of Board of Commissioners.](#)

[Sec. 28-4. - Responsibility of County Manager.](#)

[Sec. 28-5. - Responsibility of the Human Resources Director.](#)

[Sec. 28-6. - Applicability.](#)

[Secs. 28-7—28-35. - Reserved.](#)

Sec. 28-1.- Definitions.

The following words, terms and phrases, when used in articles I through VIII of this chapter shall

have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adverse action means an involuntary demotion, reduction in pay, or transfer, a suspension without pay, reduction in force, or a dismissal.

Allocation means the approval of a position by the appropriate authority based upon the needs of the County.

Anniversary date means an employee's original date of uninterrupted employment with the County in a permanent position.

Annual increment means a salary increase as determined by the applicable salary plan and the County's annual budget.

Applicant means one who applies for a vacant position by completing and submitting an application for employment regardless of current employment status, (e.g., a current employee becomes an applicant when an application for another position is submitted).

Appointing authority means any board or official with the legal authority to make hiring decisions.

Board of Commissioners means the local government unit charged with the legislative affairs of the County.

Class means a position or group of positions having similar duties and responsibilities requiring similar qualifications, which can be properly designated by one job title indicative of the work performed and which have the same salary range and grade.

Classification plan means a systematic plan of ranking groups of classes based on internal comparisons and market surveys of relative duties and responsibilities.

Compensatory time means time earned by an employee for hours worked in excess of a specified threshold within an established work period.

Close relationship means a mutually acceptable relationship, including dating, living together as man and wife, cohabitation, or other personal relationship between employees.

County Manager means the County Manager, which is the highest level of supervision and highest administrative official of County government and who is appointed by the Board of Commissioners.

Demotion, involuntary means the reassignment of an employee to a position or a classification having a lower salary grade than the position or the classification from which the reassignment is made due to performance or conduct problems.

Demotion, voluntary means when an employee requests a move to a position assigned a lower grade, and the move is mutually agreed between the employee and the County.

Director or Department Head means the highest level of supervision or top administrative official of a department of County government.

Downgrade means a classification change that results in a lower grade being assigned to a

position based on duties, responsibilities, reorganization, or market surveys.

Flexible promotions means a temporary assignment made to a current employee which is a promotion or a lead worker assignment. The assignment is made with the understanding (that) up to six months from the date of assignment, if the change is not in the best interest of the employee or the County, then the employee may return to the former classification.

FLSA (Fair Labor Standards Act) means the federal Fair Labor Standards Act, which addresses the exempt and nonexempt status of employees and rules of compensatory time and/or overtime for hours worked in excess of a specified threshold by nonexempt employees.

Full-time employee. An employee hired into a benefited budgeted position and who is regularly scheduled to work on a year-round basis at least 40 hours per week.

Full-time equivalent (FTE) means the number of hours worked per annum in relationship to a full-time position. An employee appointed to a permanently established position who is regularly scheduled to work 40 hours or more per workweek is designated as full time.

Grade means the numerical value assigned to a pay range.

Grievance procedure means the procedure whereby disputes or employee concerns regarding disciplinary actions, performance evaluations and reductions in force may be fairly and consistently addressed.

Harassment means any unwelcome comment or treatment made because of race, sex, creed, religion, national origin, age, color, or disability that creates a hostile work environment or circumstance. This term includes sexual harassment.

Hiring rate means the amount of compensation paid to an employee when hired.

Hostile work environment means an environment which a reasonable person would find hostile or abusive and that the particular person who is the object of the harassment perceives to be hostile or abusive. Hostile work environment is determined by looking at several circumstances, including the frequency of the allegedly harassing conduct, its severity, whether it is physically threatening or humiliating, and how it interferes with an employee's work performance or working conditions.

Hourly employee means an employee who is hired to work on an hourly basis and who serves at the will of the department head. An hourly employee has only the benefits conferred by federal and state law, except where the County has exclusive jurisdiction.

Immediate family means wife, husband, mother, father, brother, sister, son, daughter, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandmother, grandfather, grandson, granddaughter, stepmother, stepfather, stepbrother, stepsister, or persons living together in a close personal relationship or as otherwise approved by the department head.

Merit principle means a systematic and uniform method of personnel administration based on equal employment opportunity principles.

Part-time employee. An employee who is hired into a benefited budgeted position and who is regularly scheduled to work between 20 and less than 40 hours per week.

Performance evaluation system means the system utilized to review an employee's performance.

Permanent employee means an employee, except those employed by the Sheriff and the Register of Deeds, who has satisfactorily completed a probationary period and has been approved for permanent status by his or her department head. If the employee hired is designated a trainee or is assigned to a "work against" position, the employee shall also satisfy the minimum education and work experience requirements of the position before attaining permanent status. Permanent status is waived when an employee who has reached permanent status is transferred, promoted or demoted to a position for which he must be a trainee.

Permanent position means a benefited position that has been approved by the Board of County Commissioners and which has recurring duties and responsibilities of continuing duration. All rights and privileges of employment as set forth in this chapter attach to such position unless the section specifies otherwise. A permanent position may be established on a full-time or part-time basis.

Position means a group of duties and responsibilities assigned to a department based upon the needs of the County which may be performed by one or more employees normally not to exceed the full-time equivalent (FTE) of the position.

Position classification plan means a plan approved by the Board of Commissioners that assigns classes or positions to the appropriate pay grade.

Prior service credit means a system for determination for benefits based on equivalent prior service to the County; or for employment based on service to other organizations.

Probationary employee means an individual appointed to a permanent position who has served less than nine months in the position, or who has otherwise not completed specified prerequisites for attaining permanent status. This may be based on initial hire, promotion, or transfer into another position.

Promotion means the reassignment of an employee to a position or classification in the County having a higher salary grade than the position from which the reassignment is made.

Quid pro quo harassment consists of unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct when:

- 1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
- 2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual.

Reassignment means an intradepartmental change of duty assignment within the same grade and based upon needs of the department at the discretion of the Department head.

Reclassification means a change in a position from one class to another based on changes in the complexity, responsibility, and the skill required to perform the essential functions of the position.

Reduction in force means the abolishment of a position based on the needs of the organization, workload, or availability of funding.

Reorganization means, due to changes in the organizational needs of a department, the duties, responsibilities or requirements of a position may be reclassified or reassigned, and/or a position may be abolished in full or in part, or created according to County policy.

Retaliation means any form of adverse treatment that occurs because of reaction to a lawful and protected action by an employee.

Salary grade means all positions that are sufficiently comparable to warrant one range of pay rates.

Salary plan means the classification plan coupled with the assigned salary ranges for each classification.

Salary plan revision means the uniform raising or lowering of salary ranges within the salary plan.

Salary range means the salary assigned to each grade of the salary plan, including trainee, minimum, and maximum annual salaries.

Salary schedule means a listing by grade of all the approved salary ranges authorized by the Board of Commissioners for various positions of the County.

Service credit means time reflected for certain benefits that includes current hire date plus credit for previous service to County government.

Sexual harassment means unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when such conduct is made a term or condition of an individual's employment or a rejection of such conduct by an employee is used as a basis for future employment decisions affecting such individual or when such conduct interferes with an individual's work performance or creates an intimidating, hostile or offensive working environment for an employee or group of employees.

Temporary employee means an individual appointed to serve in a position for a predetermined duration.

Temporary position means a position for which the duties and responsibilities are required based upon the needs of the County for a specified period of time.

Time-limited position means a position, which may or may not be permanent, approved for a specified period of time, with a defined ending date.

Trainee means an employee who does not meet minimum education or experience requirements for a position but can within a specified period meet the minimum requirements.

Transfer means the reassignment of an employee from one position or department to another position or department with the same pay grade.

Unlawful workplace harassment means unwelcome or unsolicited comments or conduct based upon race, sex, creed, religion, national origin, age, color, or disabling condition as defined by G.S. 168A-3 that creates a hostile work environment or circumstances involving quid pro quo. This term includes sexual harassment.

Upgrade means a change that results in a higher grade being assigned to a position with the same job responsibility.

Work against means when an employee does not meet minimum requirements of the position and there are lower levels in the series of that classification, the employee may be assigned to the level of the series for which he is qualified and may "work against" the experience and educational requirements of the higher level position in the series.

(Ord. No. 2003-19, 10-6-2003; Ord. No. 2009-04, 4-6-2009)

Cross reference—Definitions generally §1-2.

Sec. 28-2.- Merit principle.

All appointments and promotions of employees shall be made solely on the basis of merit, fitness and occupational qualifications without regard to politics, sex, race, color, age, nondisqualifying disability, religious affiliation or national origin. The County follows generally accepted classification principles that guarantee that equal opportunities are provided for all positions of equal responsibility.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-3.- Responsibility of Board of Commissioners.

The Board of Commissioners shall approve changes to the County's Personnel Code and the pay plan, approve all new positions and new classifications, and shall make and confirm appointments when required by law.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-4.- Responsibility of County Manager.

The County Manager shall be responsible to the Board of Commissioners for the administration of the Human Resources program and shall have full responsibility for all human resource functions.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-5.- Responsibility of the Human Resources Director.

The County Manager shall appoint a Human Resources Director who shall assist in the preparation, maintenance and administration of the position classification plan and the salary plan, and perform such other duties as the Manager shall require.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-6.- Applicability.

This chapter shall be applicable to the following classes of employees: 1) Employees of the Sheriff and Register of Deeds serve at the will of those officials. The Sheriff and Register of Deeds shall be subject to the provisions of this chapter, except that they shall have the right to hire and discharge employees in their respective departments under the authority of G.S. 153A-103. 2) Employees of Social Services and Public Health shall be subject to the provisions of this chapter,

except that they shall have the additional requirements set forth by the state under G.S. 126-1 et seq. 3) Employees of the Cooperative Extension Service whose annual compensation is supplemented by state and federal funds shall be subject to all sections of this chapter, except those provisions which conflict with that memorandum of understanding (MOU) executed between the County and the State Cooperative Extension Service.

4) Employment by all other employees of County government is governed by this chapter.

(Ord. No. 2003-19, 10-6-2003)

Secs. 28-7—28-35.- Reserved.

ARTICLE II. - EQUAL EMPLOYMENT OPPORTUNITY POLICY*

Editor's note—Ord. No. 2003-19, adopted Oct. 6, 2003, amended art. II in its entirety and enacted the provisions set out herein. The former art. II, titled classification plan, derived from Code 1995, §§ 270.029—270.033.

[Sec. 28-36. - Policy statement.](#)

[Sec. 28-37. - Responsibilities.](#)

[Sec. 28-38. - Goals and objectives.](#)

[Sec. 28-39. - Policy dissemination.](#)

[Sec. 28-40. - Program evaluation](#)

[Secs. 28-41—28-65. - Reserved.](#)

Sec. 28-36.- Policy statement.

1) In establishing and following employment policies, Catawba County strives to attract, select and employ the most qualified and best suited candidates for position vacancies, all the while fostering and promoting equal employment opportunity. These policies apply to all applicants and employees applying for position vacancies.

It is the policy of the County to employ according to merit and fitness. To that end, it shall be the practice of the County to use all available means to attract qualified candidates for employment, and to make such investigations and examinations as are deemed appropriate to fairly assess the aptitude, education and experience, knowledge and skills, abilities, character and other standards required for positions in the service of the County.

The County shall recruit for and select individuals for employment or promotion in compliance with federal, state, and local laws; executive orders; and regulations prohibiting discrimination in employment practices with regard to race, color, religion, sex, national origin, disability, age, or political affiliation. The Human Resources Department shall review hiring qualifications periodically to ensure that requirements conform to the actual job performance requirements and are consistently administered and shall identify and eliminate employment practice which may result in treatment that is disparate or that has a discriminating effect.

2) The County Manager shall have overall responsibility for the administration of this equal employment opportunity policy. The Human Resources Director is charged with the day-to-day

implementation, direction, and continuous evaluation. The Human Resources Director shall present periodic reports on the progress of the program to the County Manager. Additionally, all management and supervisory personnel shall be equally responsible for compliance with the equal employment opportunity policy.

3) The equal employment opportunity policy embraces all positions in County government.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-37.- Responsibilities.

1) The County Manager shall be ultimately responsible for the achievement of equal opportunity employment and for the administration of the equal employment opportunity policy. He shall formulate and disseminate directives to department heads to develop goals and assign responsibility for the day-to-day operation and implementation of the policy. The County Manager shall inform the Board of Commissioners on the progress of the policy.

2) The Human Resources Director shall be responsible for the following:

- a) The day-to-day operation and implementation of the policy.
- b) The general direction and/or coordination of the program as established under this policy.
- c) The collection, analysis, preparation and dissemination of required reports.
- d) Assistance to supervisory personnel in meeting their responsibilities.
- e) Establishment of contacts in the community which specialize in recruitment of protected classes.
- f) The maintenance of all official personnel records in a manner consistent with applicable employment practices, laws and other requirements of the policy.
- g) The development and maintenance of all personnel directives consistent with the policy and applicable laws.
- h) Periodic review of the County's classification system, benefits, leave policies, training and career development programs, and other employment practices to ensure that all practices conform to the policy.

3) Department head shall be responsible for working with the Human Resources Director to implement the equal employment opportunity policy within their particular departments to:

- a) Establish goals and objectives based on labor market data provided by the Human Resources Director and available job openings;
- b) Provide leadership and support in the area of equal opportunity employment; and
- c) Endeavor to maintain a positive attitude among employees.

4) Supervisory staff shall be responsible for day-to-day compliance with the established policies and procedures and shall endeavor to maintain a positive attitude among employees.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-38.- Goals and objectives.

- 1) The goal of the equal employment opportunity policy is to:
 - a) Prevent discrimination in employment practices with regard to race, color, religion, sex, national origin, nondisqualifying disability, or age; and
 - b) Identify and eliminate any employment practice which may result in treatment that is disparate or that has a discriminating effect.
- 2) In order to reach these goals, the following policies are reiterated and/or established:
 - a) The Human Resources Department shall maintain records and statistical information in support of the equal employment opportunity policy to monitor the program. The information shall include the following:
 - i) Applicant flow by race and/or national origin, sex, and age;
 - ii) New employees by race and/or national origin, sex, and age;
 - iii) Transfers and promotions by race and/or national origin, sex, and age; and
 - iv) Voluntary and involuntary terminations by race and national origin, sex, and age.
 - b) Disability information shall be used when available. This information, as well as age and race and/or national origin, may not be required of applicants or employees.
- 3) The Human Resources Director shall annually prepare an equal employment opportunity report which reflects race and/or national origin and gender of employees by job categories.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-39.- Policy dissemination.

- 1) *Notice.* Each employee and citizen shall be informed of the County's equal employment opportunity policy and management's commitment to that policy through the following means:
 - a) *Internal.*
 - i) All departments, as well as individuals who request it, shall receive a copy of the equal employment opportunity annual report .
 - ii) The equal employment opportunity policy statement shall be posted on bulletin boards in all County buildings and in the Human Resources Department.
 - iii) The equal employment opportunity policy shall be discussed as part of the employee orientation and applicable training programs.
 - b) *External.*
 - i) Advertisements shall be communicated to the local news media, employment training

institutions, community and minority leaders, minority universities or other recruitment sources that the Human Resources Director deems appropriate.

ii) All employment advertisements and correspondence shall contain the statement that the County is an "equal opportunity employer."

iii) All subcontractors, vendors, and suppliers shall be notified of the equal employment opportunity policy to solicit appropriate supportive action.

2) *Monitoring.* A review of current employment practices is essential to identify barriers to equal employment opportunity. The Human Resources Director shall continually monitor the employment process and adjust procedures to ensure that barriers do not exist. The following aspects of the personnel system shall be specifically addressed:

a) *Recruitment.*

i) Each department shall maintain a coordinated recruitment process with the Human Resources Department.

ii) Pre-employment policies and procedures shall be based on essential functions of the position.

iii) Vacancies which shall be filled from within the County work force shall be posted via e-mail, intranet, and posted in areas known to employees. All vacancies for which outside applicants are considered shall be listed with the local job service office of the employment security commission.

iv) Job announcements shall be readable, realistic, and accurate in describing minimum requirements for the job, essential functions, physical requirements, job title, salary and application process.

v) Efforts shall be directed toward the local news media, employment training institutions, community minority leaders, minority universities, and other recruitment sources which have contact or represent the interest of other protected classes that the Human Resources Director deems appropriate.

b) *Selection and placement.*

i) Selection policies and procedures are designed to ensure objectivity and prohibit discrimination. The Human Resources Department shall play a major role in this process. The Human Resources Director shall provide training to those employees involved with the application, interview, and selection phases in techniques to accurately determine the job-related qualifications of each applicant. The Human Resources Director shall monitor the process to identify selection techniques which may be discriminatory.

ii) The following steps shall ensure equality and objectivity in the selection of the best-qualified applicant:

(1) Provision of reasonable accommodation of disabled applicants.

(2) Removal of all non job-related and discriminatory information from the application form.

(3) Review of screening procedures, such as tests and interviews, to ensure objectivity and job relatedness.

(4) Establishment of a documentation procedure for selections and rejections.

iii) The Human Resources Director shall monitor placement policies and work assignments of all new employees. Work assignments shall be meaningful, contribute to the attainment of the organization's goals, and offer opportunities for career advancement to the maximum extent possible.

c) *Promotions and upward mobility.*

i) All employees shall receive equal consideration for promotions, transfers, reclassification, salary increases and performance awards.

ii) All employees shall be encouraged and be permitted to apply for transfers and promotions to enhance their career development and upward mobility. Those employees who apply and are not selected shall be so informed.

iii) The Human Resources Director shall evaluate classification specifications for duties and salary to ensure job relatedness, and as necessary adjustments shall be made when duties and responsibilities change. The Human Resources Director shall also examine performance-rating measures to identify areas where training may be required or where discrimination may exist.

d) *Personnel actions and benefits.*

i) The Human Resources Director shall maintain a constant review of all personnel procedures to ensure compliance with this policy.

ii) All employees shall be informed of the grievance procedures in section 28-170. Strict compliance with these procedures shall promote rapid, fair, and reprisal-free mediation of problems or complaints. These procedures and policies are published and maintained separately in article V of this chapter and are available to employees in orientation, at the time of personnel actions and in all County departments. The Human Resources Director shall provide consultation to employees and supervisors regarding these procedures.

iii) The Human Resources Director shall update all supervisory and management staff with information on new laws, programs, and policies pertaining to equal employment opportunity. Each supervisor shall inform and explain these programs and policies to all employees.

iv) The Human Resources Director shall periodically review the benefits package to ensure that all categories of employee benefits are available to all employees on an equal basis unless otherwise required by law.

Sec. 28-40.- Program evaluation

- 1) A comprehensive evaluation of the County's equal employment opportunity efforts is essential to target areas for improvement. The Human Resources Director shall prepare an annual report on the program, recommending changes to the County Manager and management staff. With this report, the Human Resources Director shall submit a review of County and departmental equal employment opportunity goals and a listing of problems, accomplishments, and proposed future actions to ensure compliance with the planned objectives.
- 2) The Human Resources Department shall continuously maintain records and statistical information to monitor compliance.
- 3) The Human Resources Department shall conduct exit interviews preceding or following all terminations. Periodically, the Human Resources Director shall provide a collective report reflecting comments from the interviews to assist the appropriate staff in the administration of the plan.
- 4) The County Manager and Human Resources Director shall hold periodic meetings with employees to obtain feedback and suggestions on how to assist the County in achieving its equal employment opportunity goals.

(Ord. No. 2003-19, 10-6-2003)

Secs. 28-41—28-65.- Reserved.

ARTICLE III. - CLASSIFICATION PLAN ^[44]

⁽⁴⁴⁾ **Editor's note—** Ord. No. 2003-19, adopted Oct. 6, 2003, amended art. III in its entirety and enacted the provisions set out herein. The former art. III, titled wage and salary administration, derived from Code 1995, §§ 270.050—270.055, 270.064—270.068, and 270.072; and Ord. No. 2002-05, § 270.066, adopted July 8, 2002.

[Sec. 28-66. - Coverage.](#)

[Sec. 28-67. - Allocation of positions.](#)

[Sec. 28-68. - Administration of classification plan.](#)

[Sec. 28-69. - Amendments to positions.](#)

[Sec. 28-70. - Classification of new positions.](#)

[Sec. 28-71. - Amendment to classification plan.](#)

[Secs. 28-72—28-105. - Reserved.](#)

Sec. 28-66. - Coverage.

The position classification plan on file in the Human Resources Department shall be the classification plan of the County. This classification plan shall include all classes of positions.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-67. - Allocation of positions.

The County Manager shall allocate each position covered by the classification plan to its appropriate class in the plan. The Human Resources Director shall recommend for the County Manager's approval allocation of each position covered by the classification plan to its appropriate class.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-68. - Administration of classification plan.

1) The County Manager shall be responsible for administration and maintenance of the position classification plan adopted in this article. Department heads shall be responsible for bringing to the attention of the Human Resources Director any material changes in the nature of the duties, responsibilities, working conditions, or other factors affecting the classification of any existing position. Following the receipt of such information, the Human Resources Director shall study the position and report findings and recommendations to the County Manager.

2) New positions shall be established upon recommendation of the County Manager with the approval of the Board of Commissioners. The County Manager may (1) assign the new position to the appropriate class within the existing classification plan or (2) establish a new class to which the new position may be assigned, amending the position classification plan accordingly. If the County Manager finds that a substantial change has occurred in the duties and responsibilities of an existing position, he shall direct that the existing position description be revised, reallocate the position to an appropriate class within an existing classification plan, or establish a new class to which the position shall be assigned.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-69. - Amendments to positions.

Positions shall be added to and deleted from the position classification plan by the Board of Commissioners after consideration of the recommendation of the County Manager or upon consideration of budgetary factors.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-70. - Classification of new positions.

The Human Resources Director shall be responsible for studying and making recommendations to the County Manager for the allocations of new positions to the existing classes or to new classes of positions.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-71. - Amendment to classification plan.

The County Manager is authorized to amend the classification plan by adding, changing, or deleting classes of positions and salary grades based on internal analyses and market surveys within the authorized budget allocation. The Manager shall advise the Board of Commissioners of such amendments.

(Ord. No. 2003-19, 10-6-2003)

Secs. 28-72—28-105. - Reserved.

ARTICLE IV. - WAGE AND SALARY ADMINISTRATION ^[45]

⁽⁴⁵⁾ **Editor's note—** Ord. No. 2003-19, adopted Oct. 6, 2003, amended art. IV in its entirety and enacted the provisions set out herein. The former art. IV, titled employee compensation and employee performance, derived from Code 1995, §§ 270.088—270.092, 270.096—270.101, 270.104, 270.105, and 270.108—207.112.

[Sec. 28-106. - Maintenance of salary plan.](#)

[Sec. 28-107. - Administration of the salary plan.](#)

[Sec. 28-108. - Hiring or starting salary.](#)

[Sec. 28-109. - Salary of trainee/work against.](#)

[Sec. 28-110. - Salary of part-time employees.](#)

[Sec. 28-111. - Pay periods.](#)

[Sec. 28-112. - Salary adjustments.](#)

[Sec. 28-113. - Salary at separation.](#)

[Sec. 28-114. - Deductions from salary.](#)

[Sec. 28-115. - Overtime policy.](#)

[Sec. 28-116. - Leave without pay.](#)

[Sec. 28-117. - Merit awards.](#)

[Sec. 28-118. - Advance on wages.](#)

[Secs. 28-119—28-145. - Reserved.](#)

Sec. 28-106. - Maintenance of salary plan.

The County Manager shall be responsible for the administration of the salary plan. The salary plan is intended to provide equitable compensation for all positions when considered in relation to each other, to general rates of pay for similar employment in the private and public sectors, to changes in the cost of living, to financial conditions of the County and other relevant factors.

- 1) Each year, prior to the annual budget process, the Manager shall review the status of the salary plan and consider any amendments necessary to maintain a current salary structure.
- 2) The County Manager shall make cost-of-living recommendations to the Board of Commissioners based upon an annual study of local economic conditions and the financial state of County government.
- 3) Each year the Human Resources Director shall conduct a one-third pay study to review pay and classification of select County positions. A recommendation shall be made to the County Manager. Changes shall be implemented subject to available funds.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-107. - Administration of the salary plan.

The following six principles shall govern the transition to a new salary plan:

- 1) No employee shall receive a salary reduction as a result of the transition to a new salary plan.
- 2) All employees being paid at a rate lower than the minimum rate established for their respective classes shall have their salaries raised to the new minimum for their classes, unless the employee is a trainee or work against where the conditions established shall prevail. These conditions may include any established by the Office of State Personnel.
- 3) All employees being paid at a rate below the maximum rate, but above the minimum rate established for their respective classes, shall be paid at a rate within the salary range.
- 4) All employees being paid at a rate above the maximum rate established for their respective classes shall remain at their present salary as long as the maximum rate is equal to or below the employees' present salary.
- 5) The classification and salary plan shall meet the requirements of the state competitive system for the ~~county~~ employees subject to that system.
- 6) All employees covered by the salary plan shall be paid at a listed rate within the salary range established for their respective job classifications, except employees in a "trainee" or "work against" status, or employees whose present salary is above the established maximum rate.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-108. - Hiring or starting salary.

Each ~~county~~ employee, except those employees with trainee/work against status, shall be paid at least the minimum salary of the range which has been established for the classification of the position.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-109. - Salary of trainee/work against.

If an applicant for County employment does not meet the minimum requirements for the position, but is deemed to be the most suitable applicant, the Department Head may appoint the applicant as a "trainee" or "work against" as determined by the Human Resources Director and consistent with the provisions of the salary plan. The employee shall retain such status until the Human Resources Department determines that the requisite qualifications of the position are met. A trainee shall not attain permanent status until he has met the minimum job qualifications and education requirements and as such is not eligible for annual increments until permanent status is attained.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-110. - Salary of part-time employees.

The hourly rate paid to employees who are not permanent full-time employees is calculated by converting the annual salary of the comparable permanent position to an hourly rate by dividing the annual salary by 2,080 work hours.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-111. - Pay periods.

- 1) All County employees shall be paid bi-weekly (every two weeks) with two weeks in arrears.
- 2) The scheduled payroll is every other Friday; if the scheduled payday is a holiday, employees shall be paid the last working day prior to the said holiday.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-112. - Salary adjustments.

The Human Resources Director shall be responsible for implementing all salary adjustments for County employees. Employees shall be advised of all salary changes. Salary adjustments may occur as a result of the following:

- 1) *Cost-of-living increase.* The Board of Commissioners has the authority to grant all employees a cost-of-living increase each fiscal year.
- 2) *Annual increment.* An annual increment may be funded in the annual budget and, if awarded, based on the annual performance review. This section also applies to employees of the Sheriff and Register of Deeds. Annual increments are effective on the first day of the month following the anniversary date. All documentation must be received before the payroll deadline date of the month in which the annual increment is due. When an employee's annual salary is at or near the maximum of the pay grade, the employee shall receive the portion of the annual increment that exceeds the maximum pay of the pay grade as a one-time lump sum payment.
- 3) *Below standard rating.* An employee whose performance is rated below standard shall receive a five percent decrease in salary until such time as the performance is rated standard or above. In order to allow time for any grievance that may be filed and the process to take place, the normal payroll deadline process in place may be waived.
- 4) *Demotion.* An employee shall receive a decrease in salary due to a demotion, either voluntary or involuntary, unless the department head and Human Resources Director agree such a reduction would not be in the best interest of the organization.
- 5) *Promotion.* The salary of an employee promoted to a vacant position shall be adjusted within the range, provided the employee meets minimum requirements of the position.
- 6) *Negotiated increases.* Other salary increases may be granted from time to time with the approval of the County Manager. The County Manager may increase the annual salary of an employee when the employee's position is known to be one that is hard to fill or the market rate exceeds the current rate of pay. The salary increase may not exceed the maximum of

the salary range.

7) *Reclassification.* When a position is reclassified to a higher grade, the County Manager has the discretion to adjust the salary of the employee in that position upward, provided that the adjusted salary does not exceed the maximum of the new salary range, or to leave the salary unchanged except when the salary is below the minimum in which case the salary shall be brought up to the minimum of the new classification. When a position is reclassified to a lower grade, the County Manager has the discretion to reduce the salary of the employee in that position to any salary within the range for the new grade or leave the salary unchanged.

8) *Trainee/work against to full class.* When a trainee/work against meets the minimum requirements for the position (full class), the salary shall be adjusted upward to the minimum of the position's salary range unless otherwise negotiated at the time of hire.

9) *Transfer.* The salary of an employee transferred to a vacant position may be adjusted within the range as negotiated between employer and employee.

10) *Effective date.* Salary adjustments shall generally be effective on the date of the actual change. Annual increment increases shall be effective the first day of the month after the anniversary month.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-113. - Salary at separation.

The final scheduled payroll check for a County employee shall be paid two weeks in arrears. The final payment received by the employee shall include annual leave as allowed under the provisions of the personnel code, floating holiday time, and overtime amounts due, less any pay previously advanced, and shall be paid in the payroll which occurs two weeks following the final regular payroll. An employee who separates employment with the County shall receive a reduction in final pay if there is a negative balance in sick leave, floating holiday time or annual leave.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-114. - Deductions from salary.

Deductions which are required by law shall be deducted from employees' pay and shall include the following:

- 1) Federal income tax.
- 2) State income tax.
- 3) Social Security.
- 4) Local Government Employees' Retirement System, or Law Enforcement Officers' Benefit and Retirement Fund.

Other deductions which may be taken include United Way contributions, pay advance repayment, optional retirement plan contributions, insurance benefit payments and other voluntary deductions

approved by the County.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-115. - Overtime policy.

The County abides by all applicable sections of the Fair Labor Standards Act, as amended. Further details are provided in sections 28-156 through 28-161 of this chapter and through the Human Resources Department.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-116. - Leave without pay.

1) *[Qualifications.]* The decision to grant leave without pay is solely in the discretion of the department head. Factors to be considered are necessity, duration of leave, workload, and other factors in the best interest of the County. Leave without pay may be granted to employees who have exhausted all other forms of leave

2) *Leave without pay procedures.*

a) The request for leave without pay must be made in writing in a timely fashion prior to the anticipated date.

b) Accumulated annual leave must be exhausted before leave without pay may be granted.

c) Accumulated sick leave must be exhausted before leave without pay may be granted in cases of illness where disability is not a factor.

d) No floating holidays, annual or sick leave shall be earned during a period of leave without pay.

e) An employee on leave without pay status shall be eligible for any continuation of allowable benefits by continuing to pay the employee's share of the cost and the employer's share, if applicable, and by making all employee and employer costs for such benefits as they become due. Any reimbursements due the County because of leave without pay may be deducted from the employee's pay upon the employee's return to work.

f) When circumstances arise or when conditions exist which cause a need to fill a position left vacant due to leave without pay, the employee in leave without pay status shall be notified of the need to fill the position and given an opportunity to return to the position. If the employee on leave without pay status does not return to the position the position shall become vacant. Failure on the part of the employee to report promptly, except for reasons submitted in advance to and approved by the department head, shall be considered a voluntary resignation.

3) *Exception to leave without pay qualifications and pay procedures.* To afford the County Manager flexibility in addressing personnel costs, the Manager may declare furlough days with all employees subject to the furlough, regardless of their leave balance. These furloughs may be declared by the Manager as:

- a) A rolling furlough in which departments schedule employees for a furlough day within a given timeframe. Because the departments would be creating their own furlough schedules, the impact on staffing levels would be minimized.
- b) Declaring a furlough day on one of the paid holidays which are listed as a benefit to employees in section 28-205 of the personnel code. Employees would not be paid for the holiday.
- c) Declaring an additional unpaid holiday not listed in section 28-205

(Ord. No. 2003-19, 10-6-2003; Ord. No. 2009-04, 4-6-2009)

Sec. 28-117. - Performance awards.

- 1) Performance award funds shall be designated by the Board of Commissioners and shall be distributed in a manner described by the County Manager. Only employees in permanent, budgeted positions working a minimum of 20 hours per week are eligible to receive performance awards.
- 2) Performance awards shall be initiated at the departmental level upon recommendation of the department head and review of the Human Resources Director. Such recommendations shall be accompanied by an explicit written justification setting forth the specific meritorious performance rewarded.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-118. - Advance on wages.

There shall be no advance on wages.

(Ord. No. 2003-19, 10-6-2003)

Secs. 28-119—28-145. - Reserved.

ARTICLE V. - EMPLOYMENT COMPENSATION AND EMPLOYEE PERFORMANCE ^[46]

⁽⁴⁶⁾ **Editor's note—** Ord. No. 2003-19, adopted Oct. 6, 2003, amended art. V in its entirety and enacted the provisions set out herein. The former art. V, titled employee benefits and services, derived from Code 1995, §§ 270.123—270.125.1 and 270.135—270.145 and Ord. No. 2003-15, adopted Aug. 4, 2004.

[Sec. 28-146. - Applicability.](#)

[Sec. 28-147. - Statement of equal employment opportunity.](#)

[Sec. 28-148. - Recruitment requirements.](#)

[Sec. 28-149. - Eligibility for employment.](#)

[Sec. 28-150. - Appointment of department directors and heads.](#)

[Sec. 28-151. - Transfers.](#)

[Sec. 28-152. - Flexible promotions.](#)
[Sec. 28-153. - Conditional offer of employment.](#)
[Sec. 28-154. - Employment categories.](#)
[Sec. 28-155. - Resignation.](#)
[Sec. 28-156. - Fair labor standards.](#)
[Sec. 28-157. - Compensatory time for FLSA exempt employees.](#)
[Sec. 28-158. - Workweek.](#)
[Sec. 28-159. - Work schedule.](#)
[Sec. 28-160. - Work schedule recordkeeping.](#)
[Sec. 28-161. - Overtime.](#)
[Sec. 28-162. - Disciplinary action.](#)
[Sec. 28-163. - Performance evaluation.](#)
[Sec. 28-164. - Delay of performance evaluation, including probation.](#)
[Sec. 28-165. - Probationary period.](#)
[Sec. 28-166. - Permanent status.](#)
[Sec. 28-167. - Reduction in force.](#)
[Sec. 28-168. - Demotion.](#)
[Sec. 28-169. - Secondary or outside employment.](#)
[Sec. 28-170. - Grievance procedure.](#)
[Secs. 28-171—28-195. - Reserved.](#)

Sec. 28-146. - Applicability.

This article shall be applicable to all employees, except the requirements for the employees specifically exempted in section 28-6.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-147. - Statement of equal employment opportunity.

It is the policy of the County to maintain a systematic, consistent recruitment program, to promote equal employment opportunities, and to identify and attract the most qualified applicants for employment with the County. This policy is achieved by announcing all position vacancies, and by evaluating all applicants using the same criteria. Personnel decisions are made without regard to race, color, religion, sex, national origin, political affiliation, nondisqualifying disability or age.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-148. - Recruitment requirements.

1) *[Human Resources Director's responsibilities.]* The Human Resources Director shall be responsible for publicizing opportunities and recruiting qualified personnel for all vacant positions authorized by the operating budget of the departments in the County government. The Human Resources Director may also recruit qualified personnel as requested by and for the offices of Sheriff and Register of Deeds. Human Resources Department shall be responsible for maintenance of records of all position vacancy announcements, including posting and closing dates, all optional referral sources used in the recruitment process, and the pool of applicants considered for each vacancy. The data for each applicant interviewed shall include equal employment opportunity data and interview information. Records shall be maintained in accordance with County Management Records Retention and Disposition Schedule.

2) *[Department head's responsibilities.]* Each department head shall be responsible for advising the Human Resources Director of anticipated or current vacancies in authorized budgeted

positions for the department.

3) *External advertisement.* Vacant positions to be filled shall be publicized by Human Resources through the local employment security commission office and through other methods as determined appropriate for the position in order to permit an open opportunity for all interested employees and applicants to apply.

4) *Internal advertisement.* The department head may determine that a specific vacancy has qualified internal candidates, and the vacancy shall be advertised by Human Resources internally for a period of at least five business days and shall be posted throughout the County government organization. If a suitable candidate is not found within the organization, then the position shall be advertised externally.

5) *[Qualifications to be considered.]* Applicants shall be considered on the basis of their qualifications and suitability for the position, including, but not limited to, fitness for duty, relative ability, knowledge and skills; educational background; and any special licenses or certifications which may be required. All applicants considered for employment or promotion shall meet the qualification standards established by the position description to which appointment is being considered. All applications must be made through the Human Resources Department. All candidates for employment must hold at least a high school diploma or GED.

6) *[Selection process.]* Departments shall develop, use, and document, on a consistent basis, a selection process approved by the Human Resources Director that best suits the County's needs in filling positions within each agency or department, and which explains the reason for selection decisions. All selection methods developed and utilized by the department head shall be based on job requirements. The selection of applicants shall be based upon a relative consideration of their qualifications for the position to be filled. Advantage shall be given to applicants determined to be best qualified. All hiring decisions must be reasonably documented to verify the basis of the selection.

7) *["Trainee" appointments.]* Consideration shall be given to "trainee" appointments when there is an absence of qualified applicants from which to make a selection. In this instance, if the deficiencies may be eliminated through orientation and on-the-job training, the employee is designated as a trainee.

When qualified applicants are unavailable and there is no trainee provision for the vacant classification, an appointment may be made below the level of the regular classification in a "work-against" appointment, allowing the appointee an opportunity to gain the qualifications needed for full class through on-the-job experience. The appointee must meet the minimum education and experience standard of the class to which the appointee was initially appointed. A work-against appointment may not be made when applicants are available who meet the education, experience and other conditions of employment requirements for the full class of the position in question.

8) *[Notification.]* The applicant deemed most qualified shall be notified of the selection and a conditional offer of employment as established in section 28-153 shall be initiated by the department head. The documentation of offer and acceptance shall be forwarded to the Human Resources Department where it shall be placed in the official personnel file.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-149. - Eligibility for employment.

- 1) *Constitutional guarantees.* No County employee shall be required to belong to any particular political party as a condition of employment; nor shall race, age, sex, color, religion, creed, nondisqualifying disability or national origin be used as a qualifying standard for employment.
- 2) *Citizenship and alien registration.* All County employees shall be citizens of the United States, or legally eligible for employment in the United States
- 3) *Employment of relatives or persons involved in close personal relationships.* The employment of relatives within the same department or unit/section of a department at the same time is to be avoided unless significant recruitment difficulties exist. If it is necessary for relatives to be considered for employment the following shall apply:
 - a) Two members of an immediate family or two persons living together in a close relationship shall not be employed within the same department or unit/section of a department if such employment shall result in one supervising the other, or where one member occupies a position which has influence over the other's employment, promotion, salary administration or other related management or personnel considerations. Exceptions shall be made where the nature of the position requires a marital couple.
 - b) It is not the intent or purpose of subsection 3) of this section to limit the opportunities of any employee who is closely related to another, but to prevent persons with close personal relationships from having a supervisory relationship, influence over the employment considerations, or authority over the other.
 - c) If two individuals are already employed and then marry, the following shall apply:
 - i) Where a transfer, promotion, demotion, or other personnel transactions create a conflicting situation, it is incumbent upon the department head, in consultation with the Human Resources Director, to rectify such a situation within 30 days, preferably through transfer. This 30-day limitation may be waived by the County Manager, provided the department head demonstrates good cause in the request for such a waiver.
 - ii) Termination of an employee under these conditions should be avoided if at all possible. Exceptions shall be made where the nature of the position requires a marital couple.
- 4) *Sheriff and Register of Deeds.* As referenced in G.S. 153A-103, the Board of Commissioners must approve the appointment of a relative of the Sheriff or Register of Deeds who is related by blood or marriage of nearer kinship than first cousin or of a person who has been convicted of moral turpitude. Approval of the Board of Commissioners is not required for the reappointment or continued appointment of a near relative of a Sheriff or Register of Deeds who was not related to the appointing officer at the time of initial appointment.
- 5) *Minimum age.* The minimum employment age is 18 years of age. Law enforcement officers must be at least 21 years of age.
- 6) *Residency.* Department heads are required to reside within the County limits. An applicant for a department head position or an employee promoted to a department head position, shall be

required to move into the county limits within a reasonable period of time. The County Manager is authorized to waive this requirement for hard-to-fill positions or for employees promoted to department head positions where the ability to deliver needed service is not compromised.

(Ord. No. 2003-19, 10-6-2003; Ord. No. 2008-20, 11-17-2008)

Sec. 28-150. – Appointment of department directors and heads.

The County Manager shall make all appointments of department directors or heads under his direction, except those elected or appointed by the Board of Commissioners or other boards.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-151. - Transfers.

If a vacancy occurs and an employee wishes to be considered for transfer to the vacant position, the employee shall submit an application to the Human Resources Department during the recruitment period for the position. All normal conditions of recruitment shall apply. Department heads have the authority to affect lateral transfers within their department.

Employees not subject to the State Personnel Act shall be required by the department head to serve a six-month probationary period when transferring to a new position. This probationary period may be extended for an additional three months at the discretion of the department head. If the employee is on probation from the initial hire date, and transferring from one department to another, the probationary period may be extended. Employees subject to the State Personnel Act shall follow required probationary periods as established by the Office of State Personnel when transferring to a new position.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-152. - Flexible promotions.

The County wants to create every opportunity to make promotional opportunities available to current employees. However, the County recognizes there may be situations where the employee or the County may decide the promotion was not in the best interest of the employee and/or the organization.

Flexible promotions shall adhere to all established recruitment policies and shall allow the following:

- 1) Flexible promotions/lead worker assignments shall include a six-month evaluation time, with an additional three month extension available at the discretion of the department head, to allow both the employee and the supervisor to determine if the assignment is in the best interest of the employee and/or the organization.
- 2) Departments must be able to accommodate these changes within their department when flexible promotions/lead worker assignments are determined not to work in the best interest of the employee and/or the organization.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-153. - Conditional offer of employment.

In order to protect citizens of the County and their properties, the procedures in this subsection are established on applicants for all positions in County government.

- 1) The Human Resources Director shall conduct a criminal background investigation of any final candidate for a County government position, and it shall be a precondition of employment that an applicant for a position shall provide all necessary personal identification, including Social Security number and driver's license, if available, so that a thorough search may be made of local, state and/or national criminal records to determine if the applicant has a history of criminal convictions.
- 2) An evaluation of any crime for purposes of employment shall take into account the nature and the circumstances of the offense and the timeframe of the offense as they relate to the essential job functions for the position.
- 3) Employment with the County may require that additional tests or investigations be conducted, after making a conditional offer of employment, but before making a final offer of employment. Such additional tests or investigations are determined by the position being filled, and may include, but are not necessarily limited to the following: driver's license record checks, credit checks, educational degree verification and finger printing.
- 4) All final candidates for County employment shall be required to undergo and pass a drug screening. All final candidates for Department Of Transportation positions shall undergo and pass a blood alcohol and drug screening.
- 5) Once an applicant is extended a conditional offer of employment, the applicant may be required to undergo an examination for fitness for duty. The appropriate test shall be based on bona fide occupational qualifications. Unsatisfactory results from such testing shall result in the conditional offer of employment being withdrawn.
- 6) The County reserves the right to consider all results and withdraw any offer of conditional employment based on the results obtained.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-154. - Employment categories.

All County employees are hired in one of the following categories:

- 1) *Full-time employees.* An employee hired into a benefited budgeted position and who is regularly scheduled to work on a year-round basis at least 40 hours per week. Such employees are entitled to all rights and benefits as set out in this chapter.
- 2) *Part-time employee.* An employee who is hired into a benefited budgeted position and who is regularly scheduled to work between 20 and less than 40 hours per week. Such employees are entitled to all rights and benefits as set out in this chapter.
- 3) *Hourly employee.* An employee who is hired to work on an hourly basis and who

serves at the will of the department head. An hourly employee has only the benefits conferred by federal and state law, except where the County has exclusive jurisdiction.

The County Manager has the authority to increase or decrease scheduled work hours within a given position to meet the needs of the organization. Associated employee benefits contribution would be in accordance with the employee's scheduled hours.

(Ord. No. 2003-19, 10-6-2003; Ord. No. 2009-04, 4-6-2009)

Sec. 28-155. - Resignation.

An employee who terminates employment with the County should submit written notification to the immediate supervisor at least three weeks prior to the intended date of separation. If, in the judgment of the department head, less than three weeks' notice shall not adversely affect the department, then less notice may be approved. Department heads, division and program managers are required to provide four weeks' notice. The day the notice is submitted is not considered part of the notice period. Additionally, to meet the four weeks' notice requirement, the department head or County Manager may require the employee to be present and working on-site throughout the notice period. If unapproved absences occur during the notice period, the notice may be considered inadequate. If proper notice is not given, the employee waives payment for accrued annual leave.

An employee who is absent from work for three consecutive workdays without reporting to the supervisor the reasons for the absence shall be considered to have separated employment without notice and to have waived payment for accrued leave. Such failure shall be deemed a voluntary resignation from employment when the employee is absent without approval for a period of at least three consecutive workdays. Separation shall not occur until the department head has undertaken reasonable efforts to contact the employee.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-156. - Fair labor standards.

1) *[Fair Labor Standards Act.]* It is the policy of the County to comply with all the requirements of the Fair Labor Standards Act (FLSA), 29 U.S.C. section 201 et seq. For the purposes of this section, the Fair Labor Standards Act applies to nonexempt employees.

2) *[Compliance required.]* As an integral part of job duties and responsibilities, every department head, supervisor or individual in a managing position is required to ensure compliance with the applicable standards, regulations and guidelines of this law.

3) *[Covered practices.]* All employees are encouraged to discuss with their supervisor any employment practices which may be governed by the Fair Labor Standards Act. All prohibitions against retaliation and discrimination described in 29 U.S.C. 215 shall be strictly adhered to by all agents of the County, including department heads, supervisors and individuals in management. There shall be no retaliation by the County against any employee who asserts a right or claim under the Fair Labor Standards Act.

4) *Nonexempt employees.* In lieu of overtime pay, it is the County's policy to award

compensatory time accumulated at time-and-one-half for each overtime hour worked, unless another arrangement is made through the Human Resources Department and approved by the County Manager.

Overtime hours remaining on a nonexempt employee's leave record shall be compensated at the employee's current rate of pay upon separation.

- a) *[Time records.]* All employees shall maintain true, complete and legible time records. All time worked shall be recorded to the nearest one-quarter hour and shall be submitted to the supervisor in a timely fashion. All overtime work shall be preapproved by the supervisor except in emergency situations where prior approval cannot reasonably be obtained. In such event, approval shall be obtained as soon as practicable after the overtime work has begun.
- b) *Management of FLSA overtime and FLSA straight time.* Supervisors have the right and obligation to manage the accumulation of FLSA overtime and straight time. Therefore, supervisors are required to monitor time and have the right to require the employee to take time off to reduce accrued hours.
- c) *FLSA overtime and FLSA straight time.* When nonexempt employees are awarded compensatory time in lieu of overtime payments, the compensatory time shall accumulate time-and-one-half for each overtime hours worked in excess of 40 in a seven-day workweek (FLSA overtime). Nonexempt employees may earn FLSA straight time for hours worked over their regular schedule up to 40 hours in a seven-day workweek (FLSA straight time).
- d) *Maximum accrual.* Nonexempt employees may accrue up to a combined maximum of 240 hours of FLSA straight time and FLSA overtime during the calendar year. All hours earned in excess of 240 during the calendar year shall be paid out to the employee. The maximum allowable amount of combined FLSA straight time and FLSA overtime that can be carried forward from one calendar year to the next is 60 hours. All hours earned over 60 at the end of the calendar year shall be paid out to the employee.
- e) *Law enforcement personnel, including detention officers.* The work period for sworn law enforcement and detention officers is a 14-day work period with the FLSA Section 7k 86-hour overtime threshold. The work schedule for these employees is 80 hours per two-week period. All hours worked between 80 and 86 shall be paid at the employee's regular hourly rate of pay. Hours worked over 86 shall be compensated with FLSA compensatory time accumulated at time-and-one-half for each overtime hour worked. Law enforcement personnel may accrue up to a combined maximum of 480 hours of FLSA straight time and FLSA overtime during the calendar year. All hours earned in excess of 480 hours during the calendar year shall be paid out to the employee. The maximum amount of combined FLSA straight time and FLSA overtime that can be carried forward from one calendar year to the next is 60 hours. All hours earned over 60 at the end of the calendar year shall be paid out to the employee.
- f) *Emergency medical personnel.* Emergency medical personnel working a 12-hour shift shall not accumulate compensatory time but shall be paid overtime at a rate of time-and-one-half for all hours worked in excess of 40 in a seven-day workweek.
- g) An employee must exhaust all accrued FLSA straight time and FLSA overtime prior to

using annual leave, sick leave or leave without pay.

5) *Hours worked.* Hours worked is the time for which an employee is entitled to compensation under the FLSA. Compensation is required for the time an employee is required to be on duty, on the employer's premises, or at a prescribed workplace, and for the time the employee is suffered or permitted to work, whether or not requested to do so.

a) Vacation, sick, educational leave hours, holiday leave and any other leave time shall not be considered hours worked for FLSA purposes.

b) When a nonexempt employee is required to work on a County-designated holiday, the hours worked shall be compensated at straight time, except in situations when the employee works over 40 hours. In this case, all hours worked over 40 shall be compensated at the time-and-one-half rate.

The County provides full-time employees assigned to a permanent position eight hours of pay for each holiday. Employees assigned to a permanent position working less than 40 hours per week shall receive pay for holidays on a pro rata basis.

c) Floating holidays are granted to employees who must work on the holiday due to the nature of their position and schedule. Floating holidays are not considered hours worked and are compensated at straight time.

d) Training-related time, either to increase efficiency or as required by the employer, is counted as hours worked for purposes of calculating overtime. Time relating to training and educational seminars that are required by the state as a condition of practice of the profession are not considered work time and are not counted as hours worked for the purpose of calculating overtime.

e) Time spent by an employee during the regular workday preparing a grievance under the County grievance policy is considered hours worked for purposes of calculating overtime.

f) All travel time which is required by the County other than the normal commuting time between home and job is considered hours worked for the purposes of calculating overtime.

6) *Overtime payments.* Authorization for payment of overtime when the maximum compensatory time ceiling has not been reached shall be made in writing by the County Manager or the Manager's designee.

Standing authorizations. Employees or classes of employees may be granted standing authorization for overtime payments by written authorization of the County Manager or the Manager's designee.

On-call duty. Each department shall establish its own method of compensation for on-call time. The policy must be in writing, approved by the Human Resources Department and the County Manager, within the department's budget, and communicated to employees.

Nonexempt employees shall not volunteer to work overtime without receiving compensation.

(Ord. No. 2003-19, 10-6-2003; Ord. No. 2005-04, 3-21-2005)

Sec. 28-157. - Compensatory time for FLSA exempt employees.

Employees exempt from FLSA provisions shall be compensated for compensatory time earned as specified below:

- 1) Compensatory time shall be accrued on an hour-for-hour basis.
- 2) Compensatory time shall be taken by an employee at the convenience of the department, in the sole discretion of the supervisor, at a time which shall least obstruct the operation of the department. Emergency requests for use of time under this section shall be made by the employee within 30 minutes of the beginning of the workday or shift.
- 3) Compensatory time may not be transferred to any other type of leave.
- 4) An employee may substitute compensatory time on a time-for-time basis for sick, annual leave or floating holidays.
- 5) Compensatory time is lost when an employee is separated from County service. The employee's separation date may not be moved forward in order to pay for compensatory time.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-158. - Workweek.

The standard workweek shall be from 12:01 a.m. on Saturday through 12:00 midnight on Friday, unless an alternate schedule has been so designated by the Human Resources Director.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-159. - Work schedule.

Employees are expected to work during all assigned periods exclusive of mealtimes.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-160. - Work schedule recordkeeping.

All employees are required to report a true and accurate record of hours worked.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-161. - Overtime.

Except in cases of emergency, employees are not to perform work at any time they are not scheduled to work, unless they receive prior approval from their immediate supervisor. An emergency exists if a condition arises that could reasonably result in damage or harm to persons or property, that requires the immediate attention of the employee. Employees who work excess hours because of an emergency shall advise their immediate supervisor of the overtime worked as soon as practical following completion of work.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-162. - Disciplinary action.

1) *Generally.* Department heads and supervisors are responsible for maintaining the proper conduct and discipline of employees under their supervision. When an employee's performance or conduct is determined by a supervisor or department head to be unacceptable, disciplinary action may be taken in a number of ways, depending on the nature of the offense. All written warnings and formal notice to employees of performance or conduct that is unacceptable must be included in the employee's personnel file as maintained by the Human Resources Department.

2) *Just cause.* Just cause for disciplinary action shall be in accordance with the following:

a) Any employee, regardless of occupation, position or profession, may be warned, demoted, suspended and/or dismissed by the appropriate authority, in accordance with this section. Such actions may be taken against employees with permanent status, as defined by section 28-1, only for just cause. The degree and type of action taken shall be based upon the sound and considered judgment of appropriate authority. When just cause exists, the only disciplinary actions provided for under this section are as follows:

i) Written warning;

ii) Disciplinary suspension without pay;

iii) Demotion; and

iv) Dismissal.

b) There are two bases for the discipline or dismissal of employees under the statutory standard of "just cause" as set out in G.S. 126-35. The two bases are discipline imposed on the basis of unsatisfactory job performance, including grossly inefficient job performance; and discipline imposed on the basis of unacceptable personal conduct.

i) Unsatisfactory job performance is work-related performance that fails to satisfactorily meet job requirements as specified in the relevant job description, work plan or as directed by the management of the work unit or department.

ii) Grossly inefficient job performance occurs when the employee fails to satisfactorily perform job requirements as specified in the job description, work plan, or as directed by the management of the work unit or department and that failure results in the following:

(1) The creation of the potential for death or injury or damage to a client, an employee, members of the public or to a person over whom the employee has responsibility; or

(2) The loss of or damage to department property or funds that could result in a serious impact on the department and/or work unit.

iii) Unacceptable personal conduct includes:

(1) Conduct for which no reasonable person should expect to receive prior warning;

- (2) Job-related conduct which constitutes a violation of state or federal law;
- (3) Conviction of a felony or an offense involving moral turpitude that is detrimental to or impacts the employee's service to the department or the County;
- (4) The willful violation of known or written work rules;
- (5) Conduct unbecoming an employee that is detrimental to the department's service;
- (6) The abuse of client, patient, student or a person over whom the employee has charge or to whom the employee has a responsibility, or of an animal owned or in the custody of the department; or
- (7) Falsification of an employment application or other employment documentation;
- (8) Insubordination which is the willful failure or refusal to carry out a reasonable order from an authorized supervisor. Insubordination is considered unacceptable personal conduct for which any level of discipline, including dismissal, may be imposed without prior warning; or
- (9) Absence from work after all authorized leave credits and benefits have been exhausted.

iv) Either unsatisfactory or grossly inefficient job performance or unacceptable personal conduct constitutes just cause for discipline or dismissal. The categories are not mutually exclusive, as certain actions by employees may fall into both categories, depending upon the facts of each case. No disciplinary action shall be invalid solely because the disciplinary action is labeled incorrectly.

v) The imposition of any disciplinary action shall comply with the procedural requirements contained in subsection 9) of this section.

3) *Dismissal for unsatisfactory performance of duties.* Procedures for dismissal for unsatisfactory performance of duties are as follows:

a) Successive disciplinary actions need not all concern the same type of unsatisfactory performance. Disciplinary actions related to personal conduct may be included in the successive system for performance-related dismissal, provided that the employee receives at least the minimum number of disciplinary actions, regardless of the basis of the disciplinary actions, required for dismissal on the basis of inadequate performance.

b) In order to be dismissed for a current incident of unsatisfactory job performance, a permanent employee must first receive at least two prior disciplinary actions which notify the employee that failure to make the required performance improvements may result in further disciplinary action, up to and including dismissal.

c) Prior to the decision to dismiss an employee, the department head or designee must conduct a predisciplinary conference with the employee in accordance with the procedural requirements of subsection 9) of this section.

d) An employee who is dismissed must receive written notice of the specific reasons for the dismissal as well as notice of any applicable appeal rights.

e) Time limits for filing a grievance do not start until the employee receives written notice of any applicable appeal rights.

4) *Dismissal for grossly inefficient job performance.* Procedures for dismissal for grossly inefficient job performance are as follows:

a) Dismissal on the basis of grossly inefficient job performance is administered in the same manner as for unacceptable personal conduct. Permanent employees may be dismissed on the basis of a current incident of grossly inefficient job performance without any prior disciplinary action.

b) Prior to dismissal of an employee with permanent status on the basis of grossly inefficient job performance, there shall be a predisciplinary conference between the employee and the department head or designee. This conference shall be held in accordance with the provisions of subsection 9) of this section pertaining to procedural requirements.

c) Dismissals for grossly inefficient job performance require written notification to the employee. Such notification must include specific reasons for the dismissal and notice of the employee's right of appeal.

d) Time limits for filing a grievance do not start until the employee receives written notice of any applicable appeal rights.

5) *Dismissal for personal conduct.* Procedures for dismissal for personal conduct are as follows:

a) Permanent employees may be dismissed without prior discipline for a current incident of unacceptable personal conduct.

b) Prior to dismissal of an employee with permanent status on the basis of unacceptable personal conduct, there shall be a predisciplinary conference between the employee and the department head or designee. This conference shall be held in accordance with subsection 9) of this section.

c) Dismissals for unacceptable personal conduct require written notification to the employee. Such notification must include specific reasons for the dismissal and notice of the employee's right of appeal.

d) Time limits for filing a grievance do not start until the employee receives written notice of any applicable appeal rights.

6) *Written warning.* Written warnings shall be given in accordance with the following:

a) The supervisor shall monitor and promote the satisfactory performance of work assignments and acceptable standards of personal conduct. All types of performance-related job inadequacies may constitute unsatisfactory job performance under this section. Unacceptable personal conduct may be work-related or nonwork-related conduct and may

be intentional or unintentional. When the supervisor determines that disciplinary action is appropriate for unsatisfactory job performance, a written warning is the first type of disciplinary action that an employee receives. The supervisor may elect to issue a written warning for grossly inefficient job performance or unacceptable personal conduct. The written warning must:

- i) Inform the employee that this is a written warning, and not some other nondisciplinary process such as counseling.
 - ii) Inform the employee of the specific issues that are the basis for the warning;
 - iii) Tell the employee what specific improvements, if applicable, must be made to address these specific issues;
 - iv) Inform the employee the time frame allowed for making the required improvements/corrections. Absent a specified time frame, 60 days is the time frame allowed for correcting unsatisfactory job performance. Immediate correction is required for grossly inefficient job performance or unacceptable personal conduct.
 - v) Tell the employee the consequences of failing to timely make the required improvements/corrections.
- b) A written warning must be issued in accordance with the procedural requirements contained in subsection 9) of this section.

7) *Disciplinary suspension without pay.* An employee may be suspended without pay for disciplinary purposes for unsatisfactory job performance after the receipt of at least one prior disciplinary action or for causes relating to any instance of unacceptable personal conduct or grossly inefficient job performance. The length of a disciplinary suspension without pay for an employee must be for at least one full workweek, but not more than two full workweeks. Prior to placing any employee on disciplinary suspension without pay, the department head or designee shall conduct a predisciplinary conference with the employee in accordance with the procedural requirements contained in subsection 9) of this section. An employee who has been suspended without pay must be furnished a statement in writing setting forth the specific acts or omissions that are the reasons for the suspension and the employee's appeal rights.

8) *Demotion, involuntary.* The department head has the discretion to retain an employee in a lesser capacity when the employee's performance or conduct is sufficient to satisfy grounds for dismissal, but the employee shows promise of acceptable performance or conduct in a lesser position

- a) Any employee may be demoted as a disciplinary measure. Demotion may be made on the basis of either unsatisfactory or grossly inefficient job performance or unacceptable personal conduct as follows:
- i) *Unsatisfactory job performance.* An employee may be demoted for unsatisfactory job performance after the employee has received at least one prior disciplinary action.
 - ii) *Grossly inefficient job performance.* An employee may be demoted for grossly inefficient job performance without any prior disciplinary action.

iii) *Unacceptable personal conduct.* An employee may be demoted for unacceptable personal conduct without any prior disciplinary action.

b) An employee who is demoted must receive written notice of the specific reasons for the demotion, as well as notice of any applicable appeal rights.

c) An employee shall receive a decrease in salary due to a demotion to a lower salary grade as determined by the department head, subject to review and approval by the Human Resources Director and the County Manager. In no event shall an employee's salary rate be reduced to less than the minimum salary rate for the applicable pay grade.

d) Prior to the decision to demote an employee for disciplinary reasons, the department head or designee must conduct a predisciplinary conference with the employee in accordance with the procedural requirements contained in subsection 9) of this section.

9) *Procedural requirements.* Department heads and/or supervisors shall consult with the Human Resources Director regarding matters where suspension without pay, demotion or dismissal are considered. The following procedural requirements must be followed when taking disciplinary action under this section:

a) *Written warning.* To issue a written warning to an employee, a supervisor must issue the employee a written notice clearly stating it is a written warning detailing the specific issues, the expectations going forward, establishing time frames if applicable, and other matters referenced in subsection 6) of this section including right of appeal and a copy of the grievance procedure.

b) Prior to suspending an employee without pay, involuntarily demoting an employee or dismissing an employee, the following steps shall be followed:

i) The department head has the discretion to appoint a designee to act in his or her stead during this procedural process. The person conducting the predisciplinary conference must have the authority to decide what, if any, disciplinary action shall be imposed on the employee.

ii) A departmental supervisor shall schedule a predisciplinary conference with the employee. Advance written notice of the predisciplinary conference must be given to the employee and shall include the time, location and the issues for which discipline has been recommended. The amount of advance notice shall be as much as is practical under the circumstances.

iii) Attendance at the conference shall include the employee, the department head or designee, and a representative from Human Resources as an unbiased consultant. In addition, a second representative from the department may be present at the department head's discretion. The purpose of the predisciplinary conference is to review the recommendation for discipline with the affected employee and to listen to and consider any information presented by the employee in order to ensure that a decision is sound and not based on misinformation or mistake. Security personnel may be present when, in the discretion of the person conducting the conference, a need for

security exists. No attorneys representing either side may attend the conference.

iv) During the conference, the department head shall review written notice of the recommendation for disciplinary action, including specific reasons for the proposed discipline and a summary of the information supporting that recommendation. The employee shall have an opportunity to respond to the proposed action and to offer information or arguments in support of the employee's position. Every effort shall be made to ensure that the employee has a full opportunity during the conference to set forth any available information in opposition to the recommendation for discipline prior to the end of the conference. This opportunity does not include the option to present witnesses.

v) Following the conference, the department head shall review and consider the response of the employee and reach a decision on the proposed recommendation.

vi) To minimize the risk of disciplinary action upon erroneous information, and to allow time following the conference for the department head to review all necessary information, the decision to discipline should not be communicated to the employee prior to the beginning of the next business day following the conclusion of the predisciplinary conference or after the end of the second business day following the completion of the predisciplinary conference. This time frame may be extended with the written consent of the employee.

vii) If the department head's decision is to demote or suspend the employee without pay, written notification of the decision containing the specific reasons for the action and the employee's appeal rights shall be issued to the employee in person or by certified mail, return receipt requested, to the last known address of the employee. An employee with permanent status who has been demoted or suspended without pay shall have the right to file an appeal according to the County grievance procedure contained in section 28-170.

viii) If the department head's decision is to dismiss the employee, a written letter of dismissal containing the specific reasons for dismissal, the effective date of the dismissal and the employee's appeal rights shall be issued to the employee in person or by certified mail, return receipt requested, to the last known address of the employee. A department shall furnish to an employee, as an attachment to the written documentation, a copy of the County grievance procedure. An employee with permanent status who has been dismissed shall have the right to file an appeal according to the County grievance procedure contained in section 28-170.

ix) The effective date of a dismissal shall be determined by the department head. The effective date of the dismissal shall not be earlier than the date of the dismissal letter nor more than 14 calendar days after the notice of dismissal.

10) *Time limits for active warnings/disciplinary actions for progressive discipline.* Any disciplinary action is deemed inactive for the purpose of this section if:

a) The supervisor notes in the employee's personnel file that the reason for the disciplinary action has been resolved or corrected; or

b) Eighteen months have passed since the warning or disciplinary action, the employee does not have another active warning or disciplinary action which occurred within the last 18 months and the department has not, prior to the expiration of the 18-month period, issued to the employee written notice, including reasons, of the extension of the period.

11) *Investigative suspension with pay.* Investigation status is used to temporarily remove an employee from work status. Placement on investigative suspension with pay does not constitute a disciplinary action as defined in this section and is not appealable.

a) Employees subject to the State Personnel Act. The department must notify an employee in writing of the reasons for investigatory placement not later than the second scheduled workday after the beginning of the placement. An investigatory placement with pay may last no longer than 30 calendar days. If no action has been taken by a department by the end of the 30-day period and no further extension has been imposed, the department must either take appropriate disciplinary action on the basis of the findings upon investigation or return the employee to active work status. Under no circumstances is it permissible to use placement on investigation status for the purpose of delaying an administrative decision on an employee's work status pending the resolution of a civil or criminal court matter involving the employee. It is permissible to place an employee in investigation status with pay only to:

i) Investigate allegations of performance or conduct deficiencies that would constitute just cause for disciplinary action;

ii) Provide time within which to schedule and conduct a pre-disciplinary conference; or

iii) Avoid disruption of the work place or to protect the safety of persons or property.

b) Employees not subject to State Personnel Act. Suspension may be necessary in either causes relating to performance of duties or personal. Suspension is intended for use in providing time to investigate, establish facts and to reach a decision concerning an employee's actions in those cases where it is determined the employee should not continue work pending a decision.

During the investigation, hearing or trial of an employee on any criminal charge, or during the course of certain civil actions or other situations involving an employee or when suspension would be in the best interest of the employee or the County, the department head may, with the County Manager's approval, suspend the employee with pay for an indefinite period.

The department must notify an employee in writing of the reasons for investigative suspension not later than the second scheduled workday after the beginning of the suspension. An investigatory placement with pay may last no longer than 30 calendar days without written notice of extension by the department head. When an extension beyond the 30-day period is required, the department head must advise the employee in writing of the extension, the length of the extension, and the specific reasons for the extension. If no action has been taken by a department by the end of the 30-day period and no further extension has been imposed, the department must either take appropriate disciplinary action on the basis of the findings upon investigation or return the employee to active work status. Under no circumstances is it permissible to use placement on investigation status for the

purpose of delaying an administrative decision. It is permissible to place an employee in investigation status with pay only to:

- i) Investigate allegations of performance or conduct deficiencies that would constitute just cause for disciplinary action;
- ii) Provide time within which to schedule and conduct a predisciplinary conference; or
- iii) Avoid disruption of the workplace or to protect the safety of persons or property.

Failure of the employee to report back to work when requested or at the expiration date of the suspension shall result in termination of employment effective the date the employee fails to return.

12) *Credentials.* By statute and rule, some duties assigned to positions may be performed only by persons who are duly licensed, registered or certified as required by relevant authority. All such requirements and restrictions are specified in the statement of essential qualifications or recruitment standards for classifications established by the Human Resources Department or in the position description for the position.

a) Employees in such classifications are responsible for obtaining and maintaining current, valid credentials as required by law or applicable rule. Failure to obtain or maintain the legally required credentials constitutes a basis for immediate dismissal without prior warning, consistent with dismissal for unacceptable personal conduct.

b) Falsification of employment credentials or other documentation in connection with securing employment constitutes just cause for disciplinary action. When credential or work history falsification is discovered after employment, disciplinary action shall be administered as follows:

i) If an employee was determined to be qualified and was selected for a position based upon falsified work experience, education, registration, licensure, or certification information that was a requirement for the position, the employee must be dismissed in accordance with subsection 9) of this section.

ii) In all other cases of post-hiring discovery of false or misleading information, disciplinary action shall be taken, but the severity of the disciplinary action shall be at the discretion of the department.

iii) When credential or work history falsification is discovered before employment with a department, the applicant shall be disqualified from consideration for the position in question.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-163. - Performance evaluation.

The supervisor to whom the employee reports for work assignments, schedule or other matters shall annually review the performance of each employee. This annual review should be conducted during the anniversary month of employment. The written evaluation of the employee must be received in the Human Resources Department prior to the payroll deadline date of the pay period

in which an annual increment would be due. Said evaluation shall be placed in the employee's official personnel file in the Human Resources Department. Any salary adjustment based on the performance evaluation (also known as annual increment), shall be effective on the first day of the month following the anniversary month. Performance shall also be evaluated at the time of a transfer or promotion so that the entire year's work history is reflected. If the position has had job description changes which change duties but not classification, the supervisor shall direct the employee to update his/her job description. The requirement of annual performance evaluation may be waived by the supervisor if the employee's anniversary date falls within three months of the date of probationary evaluation. Department heads are required to approve any such waiver and provide written verification to the Human Resources Department.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-164. - Delay of performance evaluation, including probation.

Any employee's absence from work due to approved sick leave, leave without pay, workers' compensation, or other authorized leave may result in an extension of the employee's annual performance evaluation review, so as to allow adequate time for evaluation of performance.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-165. - Probationary period.

1) *New hires with the County.* A probationary period of nine months from the date of hire shall be served by all employees in permanent positions in the service of the County except for employees hired as trainees or employees of the Sheriff and Register of Deeds. If a new hire is not meeting expectations, the supervisor is required to hold a performance conference to inform the employee of any unsatisfactory performance. The supervisor shall be responsible for evaluating the performance of the employee during the probationary period and shall complete a performance evaluation prior to the expiration date of the probationary. The probationary period may be extended for the amount of time the employee is on approved leave with or without pay. The requirement of annual performance evaluation may be waived by the supervisor if the employee's anniversary date falls within three months of the date of probationary evaluation.

2) *Transfers.* When a permanent employee transfers or is promoted from one department of the County to another, a probationary period of six months, which may be extended an additional three months at the discretion of the department head, shall be imposed. In cases where a new probationary period is imposed, this must be communicated in the hire letter.

3) *[Trainees.]* Trainees are considered to be on probation until they satisfy the requirements established in their appointment letter.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-166. - Permanent status.

Permanent status shall be granted to all fully qualified and work against employees in officially budgeted permanent positions after satisfactory completion of the nine-month probationary period, except if a permanent employee is transferred to another position as a part of a reduction in force, a six-month probationary period shall be established as a condition of transfer; and except for

employees of the Sheriff and Register of Deeds who serve at the pleasure of the respective department head. Trainee employees shall be granted permanent status at the end of nine months' probation or the trainee period, whichever is longer. Should an employee with permanent status be promoted, laterally transferred or demoted to a position for which he would be a trainee, permanent status is waived until such time as the employee meets the required minimum education and skills required for the new position satisfying the trainee requirement.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-167. - Reduction in force.

1) If a reduction in force becomes necessary for the County, either for lack of funds, revenues or lack of available work, the following procedures shall be followed:

- a) Consideration of organizational needs of the County and the affected department.
- b) A determination shall be made about which position the department can best do without.
- c) If there is more than one position in a department that could be abolished, the value of an individual's performance to the department shall be considered.
- d) All other considerations set forth herein being equal, length of service shall be considered, but shall not be the controlling consideration.
- e) No permanent employee shall be separated while there are part-time, temporary or probationary employees serving in the same class within the same department, unless the permanent employee is not willing to transfer or accept reassignment, or unless the permanent employee does not have the knowledge or skills required to perform the work of the alternate position within the same class within a reasonable period of orientation or training such that would be given to a new employee.
- f) Employees shall be given at least three weeks' written notice of a reduction in force.
- g) A permanent employee who is separated due to a reduction in force shall have the right to appeal in accordance with the grievance procedure, to ensure that reduction-in-force procedures were followed. Permanent employees under the Department of Social Services and Public Health shall have a further right to appeal to the Office of Administrative Hearings.

2) Reduction in force criteria must be approved by the County Manager before implementing the reduction in force.

(Ord. No. 2003-19, 10-6-2003; Ord. No. 2009-04, 4-6-2009)

Sec. 28-168. - Demotion.

The County recognizes two types of demotion—voluntary and involuntary.

A demotion is a change in job responsibility to a position in a lower salary grade. A department head may demote an employee under the following conditions:

- 1) *Voluntary*. When the employee and the employer agree that an employee is better suited to a lesser position, an assignment to such a position may be made without an application process; and
- 2) *Involuntary*. When an employee's performance or conduct is sufficient to satisfy grounds for dismissal, a department head may consider demotion in lieu of dismissal.

(Ord. No. 2003-19, 10-6-2003; Ord. No. 2009-04, 4-6-2009)

Sec. 28-169. - Secondary or outside employment.

Employment with the County takes priority over other employment interests of employees. All outside employment for salaries, wages or commissions, and all self-employment, must be reported to and approved by the employee's department head before such work is to begin. The department head shall determine whether the outside work would create a conflict of interest or otherwise be incompatible with County service. The assumption of outside employment without prior approval by the County, shall be deemed improper conduct and subject the employee to disciplinary action.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-170. - Grievance procedure

The grievance procedure exists to provide prompt and orderly resolution of a dispute or employee concern regarding a disciplinary action, performance evaluation, or reduction in force. Grievances which are not received within the time allowed as prescribed in this section or which are not filed with the designated authorities as prescribed in this section shall be dismissed.

This grievance procedure applies to all departments and employees of the County, except in those instances when North Carolina statutes apply to certain activities of the Sheriff or Register of Deeds. Employees in Social Services and Public Health have additional rights under the State Personnel Act.

- 1) All permanent employees shall have the right to grieve the following:
 - a) Written warnings and performance evaluations may be grieved to the department head.
 - b) Suspensions without pay, involuntary demotions, and dismissals may be grieved up to the County Manager
 - c) Reductions in force may be grieved to the County Manager.
- 2) The grievance procedure does not apply to the following issues:
 - a) Complaints of workplace harassment covered by the Workplace Harassment Policy. Procedures for filing a workplace harassment complaint are outlined in the County's Workplace Harassment Policy.
 - b) Personnel Actions which do not result in any harm to the employee, such as an assignment to another position or location where the employee does not suffer any loss

of pay.

3) The grievance procedure is to be used internally only and does not confer upon any party any remedy other than those expressly contained herein. All parties involved in a proceeding within the purview of this policy shall be protected from reprisals for such involvement. Parties engaging in any form of retaliation will be subject to disciplinary action, up to and including dismissal. When an employee has a grievance, the following successive steps are to be taken. The number of days indicated at each level should be considered as the maximum number of days unless provided otherwise, and every effort should be made by those involved to expedite the process. However, when mutually agreed upon in writing, time limits given below may be extended. If the grieving employee does not follow the timelines for successive steps, it may be considered as a withdrawal of the grievance and the grievance may be dismissed accordingly.

a) An employee must file a grievance, in writing, with the Human Resources Director and the immediate supervisor within fifteen calendar days of the date of the action being grieved. The written notice of filing shall include the date of the disputed action, the reasons for the grievance, and the remedy being sought. A conference will be scheduled to consider the employee's grievance.

b) Employees shall be allowed one hour from regular duties to work on their grievance or prepare for the grievance conference.

c) An employee shall have the right to legal counsel, and the expense of legal counsel shall be borne by the employee. However, no attorneys representing either side may attend the grievance conference.

d) The County Manager or department head has the discretion to appoint a designee to act in his stead for this process. The official conducting the hearing shall within seven calendar days of receiving the grievance contact the employee to set the date, place and time for oral presentation of the grievance.

e) The County official shall make every possible effort to achieve an equitable solution to the problem at this meeting but may take the necessary time to investigate the problem.

f) In no event shall the County official delay rendering a written decision more than seven calendar days from the grievance conference without the written consent of the employee. The written decision shall also contain notice of appeal rights, if applicable, and shall designate the County or other official who should hear a continuation of the grievance.

g) If the conclusions are satisfactory, the procedure is ended and the documents are filed in the Human Resources Department. If the conclusions are unsatisfactory, the employee may proceed up the chain of command, dependent upon where the grievance began and whether the employee is entitled to appeal. The employee shall have fifteen calendar days from the receipt of the decision to file a written notice with the Human Resources Director for continuation of the appeal. The employee shall attach all additional information and supporting documents to the written notice. The notice of appeal shall be received by the Human Resources Director by 5:00 p.m. on the fifteenth day.

h) The decision of the County Manager is administratively final, except that permanent employees of Social Services and Public Health who are subject to the State Personnel Act

shall have 30 calendar days to appeal a decision of the County Manager to the Office of Administrative Hearings in accordance with NCGS150B-23(a). Employees should consult with the Office of State Personnel regarding the State appeals procedures.

i) Employees of Social Services or Public Health filing a grievance which alleges discrimination may proceed through the County's internal grievance procedure or proceed directly to the State for a hearing by the Office of Administrative Hearings. Such appeals must be filed with the Office of Administrative Hearings within 30 calendar days of the alleged discriminatory act. Employees should consult with the Office of State Personnel regarding the State appeals procedures.

Exceptions. An initial probationary employee as set forth in section 28-119 may be released at any time during the probationary period for causes relating to the performance of duty or personal conduct without right of grievance or appeal process.

(Ord. No. 2003-19, 10-6-2003)

Secs. 28-171—28-195. - Reserved.

ARTICLE VI. - EMPLOYEE BENEFITS AND SERVICES ^[47]

⁽⁴⁷⁾ **Editor's note—** Ord. No. 2003-19, adopted Oct. 6, 2003, amended art. VI in its entirety and enacted the provisions set out herein. The former art. VI, titled personnel records and reports, derived from Code 1995, §§ 270.159—270.161 and 270.163—170.165.

[Sec. 28-196. - Eligibility.](#)

[Sec. 28-197. - Annual leave.](#)

[Sec. 28-198. - Purchase of annual leave.](#)

[Sec. 28-199. - Sick leave.](#)

[Sec. 28-200. - Reinstatement and transfer of sick leave.](#)

[Sec. 28-201. - Family and Medical Leave Act.](#)

[Sec. 28-202. - Civil leave.](#)

[Sec. 28-203. - Military leave.](#)

[Sec. 28-204. - Leave during inclement weather; emergency closing](#)

[Sec. 28-205. - Holidays.](#)

[Sec. 28-206. - Retirement.](#)

[Sec. 28-207. - Law enforcement officers' additional benefits.](#)

[Sec. 28-208. - Longevity award.](#)

[Sec. 28-209. - Employee education.](#)

[Sec. 28-210. - Benefits for difficult-to-recruit positions.](#)

[Sec. 28-211. - Other benefit programs.](#)

[Sec. 28-212. - County defense of employees.](#)

[Sec. 28-213. - Safe-workplace policy.](#)

[Sec. 28-214. - Workplace violence.](#)

[Sec. 28-215. - Safety, including Occupational Safety and Health Act.](#)

[Sec. 28-216. - Accidents involving County equipment.](#)

[Sec. 28-217. - Reporting accidents and injuries.](#)

[Sec. 28-218. - Merit awards.](#)

[Secs. 28-219—28-243. - Reserved.](#)

Sec. 28-196. - Eligibility.

The benefits provided by this article shall be applicable to full-time and part-time employees who are employed in officially budgeted positions. Excluded from this article are hourly and temporary positions.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-197. - Annual leave.

Annual leave is a benefit. Department heads have the right to deny time off when the needs of the County so require. *Leave year.* For the purpose of earning and accruing annual leave, the 12-calendar-month period between January 1 and December 31 is established as the leave year for the County. *Annual leave earned.* Each full-time permanent, probationary, or trainee employee occupying an officially budgeted position shall earn annual leave on a monthly basis in accordance with the following schedule of total service:

Years		
Hours		
Month	Annual	
Less than 2 years	\$.666	30
2 but less than 5	3	96
5 but less than 10	10	20
10 but less than 15	2	44
15 or more	4	68

Annual leave is provided to full-time and part-time employees on a pro rata basis when the workweek is less than 40 hours.

1) Procedures. Annual leave procedures are as follows:

- a) Annual leave earned by an employee shall be taken only upon prior approval of the employee's supervisor. However, an annual leave request of an emergency nature must be made by the employee and approved by the supervisor within 30 minutes of the beginning of the workday or shift.
- b) Annual leave may be taken in units of quarter hours.
- c) Excess annual leave.
 - i) Annual leave accruals in excess of 240 hours for all employees shall transfer automatically to sick leave on December 31 of each year.
 - ii) When an employee retires from the County, any hours over 240 shall transfer automatically to sick leave on the last day of the month prior to retirement.
- d) When annual leave had been exhausted, the granting of leave without pay is at the discretion of the department head. See section 28-116 pertaining to leave without pay.

- e) Annual leave shall not be advanced to any employee.
- f) A maximum of 240 hours accrued annual leave for all employees shall be paid upon separation from County service when the employee gives appropriate notice of separation as specified in section 28-155. Leave shall be compensated by separate payment in the pay period following the employee's final regular pay period.
- g) An employee who is involuntarily separated without fault shall be paid for all accrued annual leave not to exceed a maximum of 240 hours. Leave shall be compensated by separate payment in the pay period following the employee's final regular pay period.
- h) An employee who is terminated for cause shall not be compensated for accrued annual leave.
- i) An employee who does not submit the required notice of separation, or does not receive approval from the department head for less than the required notice, shall not be compensated for accrued annual leave.
- j) An employee may take annual leave with approval of the supervisor up to and including the date of separation.
- k) An employee retains active employment status during a period of annual leave up to and including the date of separation.
- l) Upon the death of a permanent employee, compensation for accumulated leave shall be paid to the employee's estate or designated beneficiary.
- m) Holidays or regularly scheduled days off which occur during a period of annual leave shall not be charged as annual leave.
- n) It shall be the responsibility of the Human Resources Director to maintain a record of annual leave on each employee, which shall be the responsibility of each supervisor to provide in a timely fashion.
- o) An employee who has resigned or been subject to a reduction in force may request annual leave be transferred to a new employer, if that employer allows the transfer of accrued annual leave. This request shall be made in writing prior to the last date of employment with the County.

(Ord. No. 2003-19, 10-6-2003; Ord. No. 2005-04, 3-21-2005; Ord. No. 2008-13, 10-6-2008)

Editor's note— Employees earning annual leave at a rate of 16 hours per month as of July 1, 1989, were given the option to make a one-time-only election to reduce annual leave accrual to 14 hours per month and to increase their sick leave accrual to ten hours per month. A salaried employee working less than 40 hours per week (four-fifths, one-half, or other) and occupying an officially budgeted position with benefits shall earn annual leave on a pro rata basis based upon the category of the employee (four-fifths, one-half, or other). Example: A half-time employee with two years of service would earn ~~five~~ fifty percent of the leave which would be earned by a full-time employee with two years of service.

Sec. 28-198. - Purchase of annual leave.

An employee hired into an officially budgeted position with benefits may be allowed to purchase annual leave which was accrued, not taken, and paid by the immediately previous employer. The

employee must request to purchase the leave within 30 days of commencing employment with the County. The amount to be purchased may not exceed 80 hours, and it must be purchased at the employee's rate of pay with the County.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-199. - Sick leave.

1) Sick leave for employees is a benefit provided by the County. Abuse of sick leave policies and practices shall be considered a disciplinary offense. Sick leave earned by an employee shall be taken only upon prior approval of the employee's supervisor. However, sick leave of an emergency nature must be requested by the employee and approved within 30 minutes of the beginning of the workday or shift. The County provides eight hours sick leave each month to each full-time permanent, probationary, or trainee employee occupying an officially budgeted position. Sick leave is provided on a pro rata basis.

Editor's note— Employees earning annual leave at a rate of sixteen (16) hours per month as of July 1, 1989, were given the option to make a one-time-only election to reduce annual leave accrual to 14 hours per month and to increase their sick leave accrual to ten hours per month.

2) As used in this subsection, immediate family for all purposes, shall be wife, husband, mother, father, brother, sister, son, daughter, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandmother, grandfather, grandson, granddaughter, stepmother, stepfather, stepbrother, stepsister, or as otherwise approved by the department head. Department heads may also approve leave for persons with whom the employee is living in a close, personal relationship. An employee may be granted sick leave if the absence is due to:

- a) Sickness or injury which prevents the performance of usual duties.
- b) Disability as defined by the County short-term disability plan.
- c) Paternity to coincide with wife's period of disability when a physician certifies the employee is needed to care for his wife; otherwise annual leave or other paid leave may be used for the birth of a child, adoption or foster placement.
- d) Exposure to a contagious disease when continuing work, in the judgment of a physician, might jeopardize the health of others.
- e) Medical and dental appointments of employee or immediate family.
- f) Quarantine due to a contagious disease in the employee's immediate family.
- g) Illness in the employee's immediate family which requires the care from the employee;
- h) Death of a member of the employee's immediate family. An absence in excess of three days must be approved by the department head.
- i) A supervisor may require a physician's statement when an employee requires sick leave in excess of three consecutive days, when the reason for sick leave is unclear or when sick leave patterns are suspect. The employee shall have 15 days to provide a medical certification and if the employee fails to provide the medical certification within the allowable

time, the absence shall be considered unexcused and subject to disciplinary action. The Human Resources Director may require a second opinion in certain circumstances. No sick leave shall be charged for a mandatory examination. The cost of second opinion examinations and other examinations where the appropriate use of sick leave is in question, shall be borne by the County.

3) Sick leave procedures are as follows:

a) Sick leave is cumulative indefinitely.

b) Sick leave may be taken in units of quarter-hours.

c) On December 31 of each year, sick leave balances are increased by automatic transfers of all annual leave hours in excess of 240 hours for all employees.

d) All unused floating holiday hours shall automatically transfer to sick leave at the end of the fiscal year.

e) Sick leave shall not be advanced to any employee.

f) All benefits to which an employee is entitled continue to accrue while an employee is out of work on sick leave or when sick leave is used to supplement short-term disability or workers' compensation benefits.

g) An employee may use sick leave to supplement workers' compensation benefits up to 100 percent of gross salary.

h) All unused sick leave is lost upon separation of employment, except when separation is due to retirement.

i) Holidays or regularly scheduled days off which occur during a period of sick leave shall not be charged as sick leave.

j) It shall be the responsibility of the Human Resources Director to maintain a record of sick leave on each employee.

4) *Sick leave use.* Supervisors may require an employee to use compensatory time in lieu of sick leave.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-200. - Reinstatement and transfer of sick leave.

1) *Re-instatement within five years* A former employee who is re-employed by the County within five years from the date of separation shall be credited with the balance of sick leave at the time of separation, except when the employee retired under the local governmental employees' retirement system or when the employee transferred the balance of sick leave to another employer.

2) *Transfer of sick leave from another employer.* Employees shall be allowed to transfer the balance of sick leave from a former employer under the following conditions:

a) The former employer was a member of one of the divisions of the state retirement system;

- b) The employee does not have more than a 15-day period of unemployment between the former employer and the County;
- c) The employee did not retire from any unit under the state retirement system, including the County.

A written request for transfer of sick leave must be made to the Human Resources Director within 90 days of employment by the County. Proper documentation, as determined by the Human Resources Director, verifying accumulated sick leave hours must be received with the request. The transfer of sick leave shall take place after the employee has successfully completed their initial probationary period.

3) *Former employees who retire.* Any former employee who retired from the County or any unit of the State retirement system and reported sick leave to the retirement system shall not be allowed to transfer that sick leave to the County.

(Ord. No. 2003-19, 10-6-2003; Ord. No. 2003-20, 10-20-2003)

Sec. 28-201. - Family and Medical Leave Act.

1) Catawba County is sensitive to the needs of employees in balancing the demands of work, personal and family health and the needs of service men and women. As such, it is the policy of the County to comply with the relevant and applicable provisions of the Family and Medical Leave Act (FMLA), as amended.

2) Requests for FMLA leave should be submitted to the Human Resources Department. For policy guidelines, refer to the County's Intranet or contact the Human Resources Department.

(Ord. No. 2003-19, 10-6-2003; Ord. No. 2009-11, 11-2-2009; Ord. No. 2011-01, 2-21-2011)

Sec. 28-202. - Civil leave.

All employees are expected to fulfill a citizen's duty to serve on juries when summoned. When a full-time employee is called for jury duty or when a part-time employee is called for jury duty such that his or her employment shall be affected, a copy of the official letter summoning the employee shall be submitted to the supervisor.

1) *Compensation.* When an employee serves on jury duty, an election must be made to either take annual leave for those days served and retain jury payment or treat those days served as days worked and remit jury payment to the County.

2) *Required attendance in court.* When an employee attends court in connection with official duties or is subpoenaed to appear as a witness, no leave is required.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-203. - Military leave.

The County complies with all federal rules regarding military leave, including accrual of benefits.

1) *Annual training.* Any employee who is a member of any of the United States armed forces

and is required to engage in field training shall be granted a military leave of absence for the period of such training. This leave of absence, if taken instead of annual leave, shall be supplemented at a rate which is the difference between an employee's daily rate of pay and what that employee receives during field training. This supplement shall continue up to a maximum period of 17 calendar days.

2) *Active duty.* An employee who has been called to active duty in the United States military shall automatically be granted an indefinite leave of absence, without pay, for the duration of such active service.

3) *Other benefits.* The Board of Commissioners from time to time may approve pay and benefits for employees who are called to active duty during national emergencies. Each employee must be reinstated without loss of privileges or seniority, provided the employee reports for duty with the County within 90 days following discharge from service, and provided the employee has reported an intent to report for duty 30 days prior to discharge from service.

4) *Temporary hires.* Any person filling a position vacated by this subsection shall be given notice that the position being filled is temporary and shall expire should the military employee return for employment.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-204. - Leave during inclement weather; emergency closing

If County department operating hours are modified due to inclement weather or other emergencies, employees who are absent from work shall be required to take leave only for those hours the department is officially open during their work schedule. Leave shall be taken according to the provisions set forth in this article.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-205. - Holidays.

The County provides 11 paid holidays as a benefit to its employees.

1) *Paid holidays observed.* The following paid holidays and such others as the Board of Commissioners may designate shall be observed by County offices:

- a) New Year's Day.
- b) Martin Luther King, Jr.'s birthday.
- c) Good Friday.
- d) Memorial Day.
- e) Independence Day.
- f) Labor Day.
- g) Thanksgiving Day and Thanksgiving Friday.

h) Christmas Day, according to the following schedule:

When Christmas Falls On:	County Employee's Observe:	These Days:
Sunday	December 22, 23 and 26	Thursday, Friday, Monday
Monday	December 25, 26 and 27	Monday, Tuesday, Wednesday
Tuesday	December 24, 25 and 26	Monday, Tuesday, Wednesday
Wednesday	December 24, 25 and 26	Tuesday, Wednesday, Thursday
Thursday	December 24, 25 and 26	Wednesday, Thursday, Friday
Friday	December 24, 25 and 28	Thursday, Friday, Monday
Saturday	December 23, 24 and 27	Thursday, Friday, Monday

All full-time employees occupying officially budgeted positions with benefits shall receive these holidays with pay providing the employee is on active pay status the scheduled working day before and the scheduled working day after the holiday period. If an employee is retiring, and the day after is the first day of retirement, the retiring employee shall be paid the holiday.

Employees working on an observed holiday shall be paid hours worked, plus eight hours holiday pay, unless the employee is receiving floating holiday time.

Part-time employees working less than 40 hours per week receive pay for holidays on a pro-rata basis.

2) *Unpaid holiday exception.* The County Manager has the authority to declare an unpaid holiday as part of a budget-required furlough.

3) *Observance of weekend holidays.* If a holiday falls on Saturday, the holiday shall be observed on Friday. If the holiday falls on Sunday, the following Monday shall be observed as the holiday. If, in the discretion of the County Manager, the County's best interest shall be served by observing the holiday otherwise, an announcement shall be made at the beginning of the calendar year.

4) *Other faith-based holidays.* Employees may wish to be away from work on certain days for faith-based observances. Department heads should attempt to arrange the work schedule so that an employee may be granted annual leave when it is requested because the day is a faith-based observance for that employee. Annual leave should be denied only when granting such leave would adversely affect services.

5) *Floating holidays.* Floating holidays may be granted as follows:

a) Employees who have work schedules that prevent them from taking regularly scheduled holidays are provided 11 holidays on an hour-for-hour basis annually at the beginning of the fiscal year. Holiday time shall be prorated for employees whose employment begins after the first of the fiscal year or who separate before the end of the fiscal year.

i) If an unpaid holiday is declared, an employee shall be compensated for all hours worked on the holiday but would not receive a floating holiday.

b) Department heads shall designate those employees to whom floating holidays shall apply. The department head is responsible for notifying the Human Resources Department which employees shall receive floating holidays.

c) Requests to take floating holidays shall be preapproved in the sole discretion of the department head.

d) Law enforcement employees and communication center employees are provided 88 holiday hours annually, which are designated at the beginning of the fiscal year. Holiday time shall be prorated for employees whose employment begins after the first of the fiscal year or who separate before the end of the fiscal year. If an unpaid holiday is declared as part of a budget-required furlough, law enforcement and communication center employees shall not receive compensation for that holiday.

e) Employees with floating holidays who separate from employment with the County will be paid for any unused portion of prorated holiday time. If an employee has used more holiday time than the prorated amount, then the employee's final paycheck shall be reduced proportionately.

f) All unused floating holiday hours shall automatically transfer to sick leave at the end of the fiscal year.

6) *Emergency medical services holidays.* Employees who are required to work 12-hour shifts shall receive compensation for 88 hours of holiday time at straight time irrespective of whether the employee actually worked the holiday. Compensation will be paid in the pay period in which the holiday time occurs. Holiday time will not be paid in advance and is subject to all deductions from salary and wages. If an unpaid holiday is declared as part of a budget-required furlough, employees who work in EMS shall not receive compensation for that holiday.

(Ord. No. 2003-19, 10-6-2003; Ord. No. 2005-04, 3-21-2005; Ord. No. 2009-04, 4-6-2009)

Sec. 28-206. - Retirement.

Eligible employees are required to join the North Carolina Local Governmental Employees' Retirement System as a condition of employment. All eligible employees shall participate in social security coverage as provided by Title II of the Federal Social Security Act as amended. There shall be no mandatory retirement age imposed on employees except in positions where a bona fide occupational qualification exists in compliance with the Age Discrimination in Employment Act Amendment, 29 USC 621-634.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-207. - Law enforcement officers' additional benefits.

As mandated by G.S. 128-21 (11b) and 143 166.42, the County participates by special contribution in the Law Enforcement Officers Supplemental Retirement Income Plan-401(k) and provides for a

special separation allowance for law enforcement officers. In the event the requirements of either statute change, the County reserves the right to change the benefit accordingly.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-208. - Longevity award.

1) *Eligibility.* The County longevity pay plan is intended to reward eligible employees under this article for faithful service on an annual basis.

2) *Exceptions.* An employee shall not be eligible to receive a longevity award when:

- a) The employee separates from the County prior to the anniversary date.
- b) An anniversary date occurs during a period of disability. A longevity award shall not be made until the employee returns to work with the County.
- c) An anniversary date occurs during a period of leave without pay. A longevity award shall not be made unless the employee returns to work with the County after the leave without pay.

3) *Distributions.* Longevity pay distributions shall be made in accordance with the following:

- a) Longevity pay shall be made in lump sum and is income for purposes of taxation. Longevity pay is not considered a part of annual base pay for classification and other pay purposes.
- b) Longevity pay is awarded upon an employee's fifth anniversary and every year thereafter. Eligible prior service to the County counts towards meeting the five-year requirement for those employees falling under schedule A if hired on or before January 31, 2005. Employees hired on or after February 1, 2005, shall be given eligible prior service to the County, however they shall fall under schedule B.
- c) Longevity pay shall be distributed in accordance with the following schedules on the last business day of the month the anniversary occurs.
- d) Any FLSA rules shall apply in accordance with the Act in effect at the time the check is written.

Schedule A

For employees hired on or before January 31, 2005

Years of Service			
Longevity Pay Rate			
(% of annual salary)		Years of Service	
Longevity Pay Rate			
(% of annual salary)			
\$	2.5	8	\$.8
\$	2.6	9	\$.9

7	2.7	20	1.0
8	2.8	21	1.1
9	2.9	22	1.2
0	3.0	23	1.3
1	3.1	24	1.4
2	3.2	25	1.5
3	3.3	26	1.6
4	3.4	27	1.7
5	3.5	28	1.8
6	3.6	29	1.9
7	3.7	30 and over	2.0

Schedule B

For employees hired on or after February 1, 2005

Years of Service	
Longevity	
Lump Sum Payment	
5—9.99	\$500.00
10—14.99	\$50.00
15—19.99	\$00.00
20—24.99	,000.00
25—29.99	,500.00
30 years +	2,000.00

(Ord. No. 2003-19, 10-6-2003; Ord. No. 2005-02, 1-18-2005)

Sec. 28-209. - Employee education.

1) *Intent.* The County educational reimbursement and leave policy is intended to assist its employees in their continuing educational efforts. Employees are encouraged to enhance their knowledge through educational and training experiences so that the public is served at an ever-increasing level of excellence. All documentation of completed courses of study shall be forwarded to the Human Resources Department to be included in the employee's personnel file upon receipt of degree or other certification. All educational leave must be approved by the department head prior to enrollment in a course.

2) *Definitions.* The following words, terms and phrases shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning.

Educational leave means leave taken to enable a permanent employee to enroll in a course of study required to maintain current employment status (e.g. licensure or certification requirement) or which addresses training/instruction to upgrade knowledge and skills directly relating to current responsibilities.

Educational reimbursement means reimbursement for educational expenses incurred in a course of study in a field which is required to maintain current status (e.g., licensure or certification requirements) or which addresses training or instruction to upgrade knowledge and skills directly relating to current responsibilities. If the County assists with funding an advanced degree, the employee shall be required to enter into a contractual agreement ensuring continued employment with the County, the duration of which shall be mutually agreed upon by the department head and the employee. Any reimbursement by the County is intended to supplement and not take the place of other financial support.

3) *Approval of educational leave by County Manager.* When an employee pursues a course of study which requires the employee's continued absence from the workplace (e.g., a full semester or quarter), approval for such leave shall be made by the County Manager with a recommendation from the department head and Human Resources Director.

4) *Educational leave with pay.* Educational leave with pay may be granted as follows:

- a) All educational leave must be approved by the department head prior to enrollment in the course.
- b) Leave with pay may not exceed actual time for classroom instruction in one course (the term "one course" is defined as a course with a maximum credit of five semester hours or the equivalent) during the semester or quarter of instruction and a reasonable amount of time for travel to and from the institution and the place of employment. The department head shall determine what is a "reasonable" amount of travel time, and whether the institution is located within a distance that could be reached in a reasonable amount of time off.
- c) A permanent employee on such leave shall continue to earn benefits to which permanent employees are entitled.
- d) Reasonable efforts must be made by the student/employee to schedule required courses outside the normal workday.
- e) No compensatory time or overtime pay shall be given for course work undertaken after the normal workday.

5) *Educational reimbursement.* Procedures for educational reimbursement are as follows:

- a) The department head has the authority to approve all courses requested for reimbursement based upon appropriate documentation.
- b) Upon the successful completion of a County-approved course as outlined in subsection 4), the County may pay the costs of tuition, additional course fees, books or other course materials incurred by the employee.
- c) If the employee fails to maintain a "B" average in the course, he or she shall be required to bear all costs, and to reimburse County for any money paid. The County will not provide any reimbursement for audited classes.
- d) Any request for reimbursement of costs must be approved by the department head in advance.

(Ord. No. 2003-19, 10-6-2003; Ord. No. 2005-02, 1-18-2005; Ord. No. 2005-02, 1-18-2005)

Sec. 28-210. - Benefits for difficult-to-recruit positions.

When recruitment or retention difficulties exist, the County Manager is authorized to negotiate, within federal and state law, special provisions for annual leave and longevity-pay benefits.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-211. - Other benefit programs.

1) The County offers a number of benefits designed to allow employees to meet their own health and welfare needs as well as those of their families. A number of approved payroll-deduction plans are available which provide the employee with additional insurance, health and wellness benefits, and an enhanced ability to save toward retirement. Each employee is encouraged to make responsible decisions regarding present needs and future retirement stability.

2) It is in the discretion of the County to determine whether to allow the addition of a benefit or service and to provide for payroll deduction. In determining whether to allow a payroll deduction, the following factors may be considered individually or in combination:

- a) The past performance, financial responsibility and reputation of the organization requesting or receiving such deduction.
- b) Whether or not administration of the program would prove to be unduly burdensome to the County.
- c) Whether a sufficient number of employees are interested.

3) The Human Resources Department shall maintain current plan descriptions of all benefits provided to employees under this article. Plan descriptions shall be made available to all employees subject to this article, and updates shall be made available at the time of benefits enrollment.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-212. - County defense of employees.

1) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning.

Officer and *employee* mean present or past members of the board, officers, or employees and present or past appointed members of County boards, agencies, committees and commissions who might have claims or judgments entered against them.

2) It shall be the policy of the County to defend its officers and employees acting in good faith within the scope of employment or duties against civil claims or judgments and to satisfy such either through the purchase of insurance or otherwise. However, the County shall not defend a claim or lawsuit or pay a claim or judgment when the officer or employee willfully:

- a) Acts or fails to act because of fraud, corruption or actual malice.

b) Acts or fails to act as a result of or at a time when his self-indulgence substantially impairs his judgment (as, for example, an officer or employee who causes damage or injury while intoxicated or under the influence of drugs while on the job or participating in one's public capacity).

c) Acts or fails to act, except in emergencies or the existence of extenuating circumstances, directly contrary to instruction from his supervisor or directly contrary to advice of the County Attorney.

d) Acts or fails to act in such manner as to constitute a criminal act (~~as~~—for example, misappropriation of property or funds).

3) The County Manager shall determine whether a claim or suit filed against an officer or employee meets the requirements specified in this section for providing a defense for such officer or employee. If a claim or lawsuit is filed naming the County Manger in his/her individual capacity or alleges gross negligence, the Board of Commissioners shall determine whether the County Manager shall be provided with defense paid for by the County.

4) The policies specified in this section shall not be applicable unless notice of the claim of suit is given to the Board of Commissioners through the County Manager or County Attorney prior to the time the claim is settled or civil suit is litigated and judgment is entered.

5) This section shall not be interpreted in any way to relieve an insurance company of its obligations under any insurance policy to protect the interests of any insured under the policy or to reduce or eliminate the rights of any officer or employee of the County against any other party. Except as expressly stated, this section is not to be interpreted as a waiver of any right or defenses the County has or may have against any party; nor shall the adoption of this section be construed to waive the defense of governmental immunity.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-213. - Safe-workplace policy.

The County is committed to making reasonable efforts to provide a safe working environment for its employees. It is expected that all employees shall adhere to this policy.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-214. - Workplace violence.

The County has a zero-tolerance policy relating to the communication of threats, verbal harassment, physical assaults, or other forms of inappropriate behavior. Unreasonably aggressive behavior shall not be condoned. Such behavior is a conduct issue. Employees found in violation shall be subject to appropriate discipline as provided for in articles I through VIII of this chapter. Other persons violating this policy may, at the discretion of the department head, be reported to the appropriate law enforcement authorities for criminal prosecution.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-215. - Safety, including Occupational Safety and Health Act.

The County is committed to providing a workplace and environment that is as safe as practicable for employees and the public. Employees are required to comply with all safety rules and regulations at all times. Personal protective and safety equipment shall be used at all times. Employees who do not comply with these requirements are subject to disciplinary action. Supervisors who fail to enforce safety rules and equipment use shall be subject to disciplinary action.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-216. - Accidents involving County equipment.

Accidents involving the use of County equipment or occurring on County property, whether or not they result in injury, shall be reported to the employee's immediate supervisor no later than the end of the work shift. If the supervisor is absent, the employee shall call the next supervisor in the chain of command, or the Human Resources Department. The employee and supervisor shall follow County policies and procedures for the reporting of accidents.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-217. - Reporting accidents and injuries.

An employee who is injured in the performance of assigned duties shall immediately report the accident to his immediate supervisor, who shall forward the report to the Human Resources Department. The supervisor shall be responsible for ensuring an injury report is completed and submitted to the Human Resources Department within one business day of a reported injury.

(Ord. No. 2003-19, 10-6-2003)

Secs. 28-2198—28-243. - Reserved.

ARTICLE VII. - CONFLICT OF INTEREST AND POLITICAL ACTIVITIES ^[48]

⁽⁴⁸⁾ **Editor's note—** Ord. No. 2003-19, adopted Oct. 6, 2003, amended art. VII in its entirety and enacted similar provisions as set out herein. The former art. VII derived from Code 1995, §§ 270.170—270.176.

[Sec. 28-244. - Applicability.](#)

[Sec. 28-245. - Political activity restricted.](#)

[Sec. 28-246. - Gifts and favors.](#)

[Sec. 28-247. - Duty to disclose.](#)

[Sec. 28-248. - Violations.](#)

[Secs. 28-249—28-274. - Reserved.](#)

Sec. 28-244. - Applicability.

This article shall be applicable to all ~~county~~ employees subject to this chapter and, where applicable, to the County's public officials.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-245. - Political activity restricted.

1) *[Purpose.]* The purpose of this section is to ensure that employees are not subject to political or partisan coercion while performing their job duties, to ensure that employees are not restricted from political activities while off duty, and to ensure that public funds are not used for political or partisan activities.

It is not the purpose of this section to allow infringement upon the rights of employees to engage in free speech and free association. Every employee has a civic responsibility to support good government by every available means and in every appropriate manner. Employees shall not be restricted from affiliating with civic organizations of a partisan or political nature, nor shall employees, while off duty, be restricted from attending political meetings, or advocating and supporting the principles or policies of civic or political organizations, or supporting partisan or nonpartisan candidates of their choice in accordance with the Constitution and laws of the State and the Constitution and laws of the United States of America.

2) *[Policy.]* The following is the policy of the County:

- a) Political activity by an employee during working hours, while in service to the County, or within the scope of County employment, is strictly prohibited.
- b) The use of County supplies, equipment, communications equipment, including Internet and e-mail, is strictly prohibited.
- c) County employees are protected from political interference in performing the duties of their job.
- d) No employee while on duty or in the workplace may:
 - i) Use his official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for political office; or
 - ii) Coerce, solicit, or compel contributions for political or partisan purposes by another employee.
 - iii) No employee may be required as a duty or condition of employment, promotion, or tenure of office to contribute funds for political or partisan purposes.

3) *Employees as candidates for office.* To become a candidate means that an employee has taken some formal or public action that may lead to being elected or appointed to a political office. It means the employee is seeking political office and for purposes of this article, an employee shall be recognized as becoming a candidate when:

- a) The employee forms any kind of fundraising committee or campaign committee, or
- b) The employee announces through the media or mail that the employee intends to become a candidate, or
- c) The employee files an official document, such as a notice of candidacy, with any board of

elections, or

d) Anyone else does any of the acts described above on the employee's behalf or starts a write-in campaign for the employee and the employee refuses to disavow such act or otherwise make the employee's intentions clearly known through an appropriate public announcement. Employees are required to notify their department head prior to such events taking place.

Being a member of the Board of Commissioners is inherently in conflict with being an employee with the County. It is divisive and may destroy the public trust between the existing commissioners and County management. Therefore, on the day an employee becomes a candidate for County commissioner, said employee shall take a leave of absence.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-246. - Gifts and favors.

1) Receiving or giving of gifts or favors is not in the best interest of the County. Therefore, no employee shall:

a) Accept any gift, favor or thing of value that may tend to influence them in the discharge of their duties.

b) Grant, in the discharge of their duty, any improper favor, service or thing of value.

2) The following gifts are considered acceptable under GS 132-32 and are the only exceptions:

a) Honorariums for participating in meetings.

b) Advertising items or souvenirs of nominal value.

c) Meals furnished at banquets.

d) Contractor donations to professional organizations to which local government officials and employees may belong, including participation in scheduled functions of such an organization.

e) Customary gifts from friends and family members, as long as the family or friendship relationship, not the desire to do business with the local government, is the motivating factor for the gift.

3) Legitimate political contributions to candidates for elected office shall not be considered gifts. Gifts to a department or the County are acceptable if shared within the organization and if deemed appropriate by the County Manager. Such gifts are considered the property of the County. A nominal gift to an employee from a nonvendor in recognition for a service well done is acceptable if deemed appropriate by the County Manager.

4) No employee shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-247. - Duty to disclose.

Any employee having knowledge of or a reason to know of a potential personal interest or upon the discovery of a potential personal interest has an affirmative duty to disclose such personal interest to the department head. Any attempts by any person, firm or corporation to influence the decision of an employee with regard to County business must be reported to the County Manager.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-248. - Violations.

Any violation of this article shall subject an employee to disciplinary action.

(Ord. No. 2003-19, 10-6-2003)

Secs. 28-249—28-274. - Reserved.

ARTICLE VIII. - STATE AND FEDERAL COMPLIANCE. ^[49]

⁽⁴⁹⁾ **Editor's note**— Ord. No. 2003-19, adopted Oct. 6, 2003, amended art. VIII in its entirety and enacted similar provisions as set out herein. The former art. VIII derived from Code 1995, §§ 270.180—270.186 and 270.194—270.196.

[Sec. 28-275. - Employment policy against unlawful workplace harassment](#)

[Sec. 28-276. - Americans with Disability \[Disabilities\] Act.](#)

[Secs. 28-277—28-302. - Reserved.](#)

Sec. 28-275. - Compliance with State and Federal Laws

It is the policy of the County to comply with the relevant and applicable provisions all Federal and State laws including, but not limited to, Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, and the Americans with Disabilities Act of 1990 as amended.

The County has a zero-tolerance policy against any form of unlawful workplace harassment including harassment defined as sexual, race, creed, religion, national origin, age, color, or disability. Complaints of workplace harassment should be filed with the Human Resources Director in accordance with the County's Workplace Harassment Policy. For policy guidelines, refer to the County's Intranet or contact the Human Resources Department.

(Ord. No. 2003-19, 10-6-2003; Ord. No. 2008-05, 4-21-2008)

Secs. 28-276—28-302. - Reserved.

ARTICLE IX. - RECORDS AND REPORTS ^[50]

⁽⁵⁰⁾ **Editor's note**— Ord. No. 2003-19, adopted Oct. 6, 2003, amended art. IX in its entirety and enacted provisions

as set out herein. The former art. IX pertained to equal employment opportunity policy and derived from Code 1995, §§ 271.01—271.04.

[Sec. 28-303. - Confidential information.](#)

[Sec. 28-304. - Personnel records; access to public information; privacy act.](#)

[Sec. 28-305. - Public and confidential information defined.](#)

[Sec. 28-306. - Request and review procedure.](#)

[Sec. 28-307. - Remedies and objections.](#)

[Sec. 28-308. - Destruction of County records.](#)

[Sec. 28-309. - Privacy policy.](#)

[Secs. 28-310—28-330. - Reserved.](#)

Sec. 28-303. - Confidential information.

1) No employee or official shall use or disclose information gained in the course of employment or by reason of position for purposes of advancing a financial or personal interest, a business entity in which there is an ownership interest, a financial or personal interest of a household member or a family member as defined in subsection 28-199 2), or any other private or political interest.

2) No employee or official shall disclose confidential or privileged information concerning personnel matters, property, contract negotiations, litigation-related matters, or other affairs of the County which are afforded protection under state law.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-304. - Personnel records; access to public information; privacy act.

1) Personnel records are necessary for the proper administration of the County personnel system and shall be maintained by the Human Resources Director. The employee's personnel file is maintained by the Human Resources Department. The personnel records custodian shall be the Human Resources Director, whose responsibility it is to maintain a file for each employee.

2) The Human Resources Director may designate an individual or individuals within the Human Resources Department to act as records custodian. The records custodian is responsible for the proper maintenance and documentation of personnel records in accordance with state and local law.

3) The County shall maintain in each employee's personnel record only information that is necessary and relevant to accomplishing legitimate personnel administration needs. It is the responsibility of the Human Resources Director to assure the sanctity and authenticity of every employee's personnel file.

4) As required by G.S. 153A-98 any person may have access to public information as defined by this article for the purpose of inspection, examination, and copying during regular business hours, subject only to such rules and regulations for the safekeeping of public record as the County may adopt. Any person denied access to this information may apply to the appropriate division of the General Court of Justice for an order compelling disclosure.

5) Departments shall forward all documents that are a part of a personnel file to the Human Resources Director.

6) For purposes of this article, an employee's personnel file consists of any information gathered by the County with respect to that employee. This would include but would not be limited to information relating to an employee's application for employment, selection for a vacant position, performance, promotions, demotion, transfers, suspension, and other disciplinary actions, evaluation forms, salary, any applicable information relating to employment, or termination of employment.

(Ord. No. 2003-19, 10-6-2003; Ord. No. 2010-06, 9-7-2010)

Sec. 28-305. - Public and confidential information defined.

1) As required by GS 153A-98, the following information regarding each ~~county~~ employee is public information:

- a) Name.
- b) Age.
- c) Date of original employment or appointment to County services.
- d) The terms of any contract by which the employee is employed whether written or oral, past or current, to the extent the County has the written contract or a record of the oral contract in its possession;
- e) Current position/title.
- f) Current salary.
- g) Date and amount of each increase or decrease in salary.
- h) Date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification.
- i) Date and general description of the reasons for each promotion.
- j) Date and type of each disciplinary dismissal, suspension or demotion. If the disciplinary action was a dismissal, a copy of the written notice of final decision setting forth the specific acts or omissions that are the basis of the dismissal.
- k) Office to which the employee is currently assigned.

For the purposes of this subsection, the term "salary" includes pay, benefits, incentives, bonuses, deferred compensation and all other forms of paid compensation.

2) All information contained in an employee's personnel file, other than the information listed in subsection 1), shall be maintained as confidential in accordance with the requirements of G.S. 153A-98 and shall be open to public inspection only in the following instances:

- a) The employee or a duly authorized agent may examine all portions of the employee's personnel file, except:
 - i) Letters of reference solicited prior to employment; and

- ii) Information concerning a medical disability, mental or physical, that a prudent physician would not divulge to a patient.
- b) A licensed physician designated in writing by an employee may examine the employee's medical record.
- c) An employee having supervisory authority over the employee may examine all material in the employee's personnel file.
- d) By order of a court of competent jurisdiction, any person may examine all material in the employee's personnel file.
- e) An official of any agency of the state or federal government or any political subdivision of the state may inspect any portion of a personnel file when such information is deemed by the person having custody of the file to be necessary and essential to the pursuance of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee or for the purpose of assisting in an investigation of the employee's tax liability.
- f) An employee may sign a written statement authorizing release of other specified information to prospective employers, educational institutions, or other specified persons.
- g) The County Manager, with the concurrence of the Board of Commissioners, may inform any persons of the employment or nonemployment, promotion, demotion, suspension, or other disciplinary action, reinstatement, transfer, or termination of an employee and the reasons for that personnel action. Before releasing the information, the Manager shall determine in writing that the release is essential to maintaining public confidence in the administration of County services or to maintaining the level of quality County services.
- h) Even if considered part of an employee's file, the following information may be withheld from an employee:
 - i) Testing or examination material used solely to determine qualification when disclosure would compromise testing.
 - ii) Investigative reports concerning possible criminal actions against the employee until the investigation is completed.
 - iii) Information which might identify undercover officers or informers.
 - iv) Notes, preliminary drafts, and internal communications unless used for official personnel decisions.

(Ord. No. 2003-19, 10-6-2003; Ord. No. 2010-06, 9-7-2010)

State law reference— Penalty for permitting illegal access to confidential file G.S. 153A-98

Sec. 28-306. - Request and review procedure.

- 1) The records custodian shall consult with a staff attorney when a request to review or copy personnel file materials of an unusual nature are received. All requests for personnel records

information must be made in writing to the records custodian. An employee may sign a written letter of consent authorizing release of confidential information to prospective employers, educational institutions or other specified persons.

2) If a request is determined by the records custodian to be for public information, the custodian shall, within a reasonable time period, provide such public information.

3) Only individuals contemplated by G.S. 153A-98 shall have standing to receive confidential personnel information. Such requests shall be made in writing. The requesting party shall not disclose such confidential information. The custodian shall within a reasonable time period provide access to such information. As required by G.S. 153A-98 any person may have access to public information as defined by this subchapter for the purpose of inspection, examination, and copying during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the County may adopt. Any person denied access to any record shall have a right to compel compliance with these provisions by application to a court for writ of mandamus or other appropriate relief.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-307. - Remedies and objections.

An employee who objects to material in a personnel file may forward to the Human Resources Director a request to place in the file a statement relating to the material the employee considers to be inaccurate or misleading. The employee may seek the removal of such material in accordance with the following procedure:

1) A written request containing the employee's name and identification of the objectionable material, with supporting documentation, shall be submitted to the records custodian.

2) The records custodian shall notify the County Manager and the appropriate supervisory personnel of the nature of the complaint and shall within five working days make a recommendation regarding the disposition of the complaint to the County Manager.

a) If the complaint is found to be valid the material shall either be corrected and returned to the file or removed from the file and destroyed.

b) If the complaint is found to be invalid the material shall remain in the personnel file and a copy of the employee's written objection shall be placed in the personnel file.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-308. - Destruction of County records.

No public official may destroy, sell, loan or otherwise dispose of any public record, except in accordance with G.S. 121-5(B), without the consent of the State Department of Cultural Resources. Whoever unlawfully violates this general statute shall face penalties as provided in G.S. 132-3.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-309. - Privacy policy.

As required by G.S. 153A-98, any person may have access to public information as defined by this article for the purpose of inspection, examination, and copying during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the County may adopt. Any person denied access to any record shall have a right to compel compliance with this article by application to a court for writ of mandamus or other appropriate relief.

Access to, or inspection and copying of employee personnel files, files of clients, and other information created and maintained by County in the ordinary course of business, are controlled by federal, state and local laws, ordinances and regulations. Any violation is subject to discipline.

(Ord. No. 2003-19, 10-6-2003)

Secs. 28-310—28-330. - Reserved.

ARTICLE X. - OPERATIONS STANDARDS FOR DRIVERS OF VEHICLES USED FOR COUNTY BUSINESS ^[51]

⁽⁵¹⁾ **Editor's note—** Ord. No. 2006-10, adopted Aug. 21, 2006, amended art. X in its entirety and enacted similar provisions as set out herein. The former art. X derived from Code 1995, §§ 275.01—275.06.

[Sec. 28-331. - Definitions.](#)

[Sec. 28-332. - Responsibilities of Risk Manager.](#)

[Sec. 28-333. - Authorization.](#)

[Sec. 28-334. - Maintenance.](#)

[Sec. 28-335. - Accident prevention.](#)

[Sec. 28-336. - Accident reporting and review.](#)

[Secs. 28-337—28-365. - Reserved.](#)

Sec. 28-331. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

County drug testing policy. The policy of the County is to maintain a workplace free of substance abuse and to work toward a drug-free community. The County shall comply with the requirements of the Federal Drug-Free Workplace Act of 1988, and any amendments or subsequent legislation affecting operations of vehicles, since sufficient evidence has concluded that the use of controlled substances and other forms of drug abuse shall seriously impair an employee's physical and mental health and, thus, job performance. This policy shall not conflict with the existing law enforcement policy as it applies to employees of the Sheriff's Department.

Defensive driving course means a course approved by the Risk Manager to teach drivers, as defined in this article, defensive driving skills.

Driver means as follows:

- 1) *Designated driver/employee* means an employee that has received the expressed

approval of the department head or designee to carry out official business of the County in a County-owned or privately owned vehicle used for conducting County business. See section 28-332

2) *Designated volunteer* means a volunteer who has received the express approval of the department head to carry out official business of the County in a County vehicle or a privately owned vehicle.

Risk Manager means the employee responsible for identifying and analyzing risks that would cause major financial loss to the County and/or any potential injury to an employee or citizen, and implementing and monitoring policies and procedures to reduce these risks.

(Ord. No. 2006-10, 8-21-2006)

Cross reference— Definitions generally, § 1-2.

Sec. 28-332. - Responsibilities of Risk Manager.

1) The frequency of accidents and the damage to County and private property call for careful attention to developing defensive-driving measures. The Risk Manager shall implement and carry out the measures in subsection 2) to address satisfactory driving standards and determine the preventability of all accidents that occur in the operation of vehicles, as defined in this article.

2) The Risk Manager shall:

a) Carry out the official actions of this article.

b) Increase the awareness level of appropriate vehicular safety by:

i) Developing appropriate defensive-driving courses for drivers, volunteers or other designated personnel;

ii) Developing guidelines for authorized use of privately owned vehicles authorized for County business and functions;

iii) Providing periodic reports, articles, and programs for enhanced vehicular safety; and

iv) Enhancing awareness of proper vehicular maintenance and ensuring the establishment of a regularly scheduled maintenance program.

c) Determine accident trends in terms of number, type, and frequency, patterns of recurrence and vulnerability and implement appropriate corrective action.

d) Review vehicle accidents incurred by drivers where property damage, personal injury, or death occurs; determine the preventability and severity of the infraction; and recommend the necessary corrective action.

Sec. 28-333. - Authorization.

1) This article applies to all County vehicles, heavy equipment/machinery and private vehicles used for and in the scope of County business.

- 2) Only employees may operate County-owned vehicles with the exception of approved contract maintenance personnel, reserve deputy sheriffs, and designated volunteers.
- 3) Drivers shall not operate a County-owned vehicle except upon the express direction and authorization of the department head, or designee, who supervises regular work activities.
- 4) A County vehicle may only be used for official County business. Reports of private use of a County vehicle shall be received and investigated by the department head, or designee, and appropriate action shall be taken.
- 5) The Risk Manager shall annually review driving records of current employees to ensure the employee meets County guidelines for drivers as stated in the County's Motor Vehicle Record Policy.
- 6) Finalists for all positions which require driving shall agree to a Department of Motor Vehicles (DMV) driving record master check as a condition of employment. Such driving checks shall be the responsibility of the Human Resources Director. The Human Resources Director shall be responsible for determining the relevance of the information obtained to the position for which the applicant has applied. Finalists for positions which require driving as described in this article shall not be recommended for hire by the Human Resources Director if a driving record from the Department of Motor Vehicles indicates the applicant has received more than four points within the last three years and/or the overall driving record is deemed unsatisfactory.
- 7) In the employee orientation session conducted by the Human Resources Department, employees subject to this article shall be informed by the Risk Manager of this article and of their obligation to function according to its provisions. Designated volunteers shall be made aware of their responsibilities under this article by the respective department head or designee.
- 8) It shall be the policy of the County to assign vehicles to a particular department for the general conduct of its business. This is not meant to restrict the use solely to that department. Vehicles, other than emergency-response vehicles, at any time may be subject to use outside of the regular department functions.

(Ord. No. 2006-10, 8-21-2006)

Sec. 28-334. - Maintenance.

- 1) Maintenance standards applying to a driver operating a County-owned vehicle are as follows:
 - a) Preventive maintenance and service of County-owned vehicles shall be the function of the County garage. Scheduling required maintenance is the responsibility of each department, or when a vehicle is assigned to an employee, the employee is responsible.
 - b) A notice of regularly scheduled preventive maintenance shall be provided to the department head or designee for each County vehicle in the form of a vehicle sticker. Each operator of a County-owned vehicle is also responsible for the North Carolina emissions inspection/safety inspection. Any fine incurred for failing to maintain the appropriate state inspections shall be the responsibility of the department.
 - c) The Facilities/Fleet Manager shall possess the authority to confiscate any vehicle that has

not received the regularly scheduled maintenance check or if he deems the vehicle not roadworthy. The Facilities/Fleet Manager shall coordinate and maintain temporary alternate vehicles.

d) Upon request, the Facilities/Fleet Manager shall provide to the department head or designee and/or the Risk Manager an analysis of vehicle-operation costs.

e) Each driver shall be responsible for ensuring that his vehicle is in good working condition at all times. A driver is responsible for reporting through a maintenance request form, immediately, all defects appropriate maintenance personnel.

2) Drivers operating privately owned vehicles under this article shall be responsible for the proper maintenance and safety of their vehicles, and maintaining insurance as required by state law and County policy.

(Ord. No. 2006-10, 8-21-2006)

Sec. 28-335. - Accident prevention.

1) It shall be the responsibility of all employees, volunteers and any other person driving in the scope of employment or on behalf of the County to drive defensively to prevent accidents in spite of the incorrect actions of others and regardless of adverse conditions, and to comply with all driving rules and regulations. The Risk Manager shall develop measures to improve driving safety, which includes the defensive-driving course. Such courses, designed both for regular driving and for those driving emergency-response vehicles, shall be scheduled on a regular basis by the Risk Manager, and drivers shall be required to take the course as set forth in this article.

2) An employee assigned a County-owned vehicle as a regular function of the employee's position with the County shall be required to complete the applicable defensive-driving course within six months of being assigned to a designated driving position. Employees of the Sheriff's Department shall be allowed to substitute basic law enforcement training (BLET) and/or the State's 40-hour driving school for the County's defensive-driving course. However, if an employee of the Sheriff's Department is involved in an avoidable accident, the employee must complete the County's next available defensive-driving course or a special training application, which addresses specific driving needs as set forth by the Risk Manager.

3) Designated volunteers responsible for driving a County-owned vehicle or driving a privately owned vehicle for County business must:

- a) Possess a valid driver's license issued by this state;
- b) Agree to a driving record master check from the Department of Motor Vehicles; and
- c) Complete the next available applicable defensive-driving course.

4) Other employees are subject to the following:

- a) Employees subject to this article who have the responsibility of transporting clients in their privately owned vehicles shall be required to complete the defensive driving course within six months of hire or reassignment.

b) Any employee who may have occasion to operate a County vehicle must take the defensive driving course.

5) The department head, or division manager, in consultation with the Human Resources Director, may require pre-employment and/or periodic physical or vision examinations to determine an employee's fitness to perform the essential functions of the job. The department head, in consultation with the Risk Manager, may also require these examinations for designated volunteers.

6) All drivers shall be instructed on precautionary procedures to take should an accident occur and should obtain the following:

- a) The name of other drivers, passengers and/or pedestrians involved;
- b) The insurance carrier, agent, and policy number of any other driver, if possible;
- c) The names of witnesses; and
- d) The investigating officer's report.

7) Employees subject to Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) regulations are required to attend training, as addressed in the County drug testing policy.

8) Basic safety equipment and supplies for vehicles shall be established by the Risk Manager (e.g., fire extinguisher, flares, signs, blood borne pathogens kits, and the like). It shall be the employee's responsibility to ensure vehicles are appropriately supplied.

9) Employees' driving records shall be updated by the Risk Manager on an annual basis or as needed according to County policy. Employees are required to attend the County defensive driving course every three years from the original date of training, or employment/assignment. If an employee has not been involved in a preventable accident or has not incurred any points on his/her driving record, the driver shall be exempt from taking the defensive-driving course for another three years. No employee shall exceed more than six years without taking the defensive-driving course.

10) Department heads or division managers requiring additional driving instruction of departmental drivers outside the scope of this article must have the instruction approved by the Risk Manager.

11) Safe driver award incentive programs shall be administered within the respective driver's department.

(Ord. No. 2006-10, 8-21-2006)

Sec. 28-336. - Accident reporting and review.

1) *Reporting.* When any driver, as defined in this article, is involved in an accident, he shall:

- a) Immediately notify proper law enforcement officials;
- b) Immediately notify the department head or division manager;

- c) Immediately notify the Facilities/Fleet Manager;
- d) Notify the Risk Manager within one working day of the accident.

Safety-sensitive employees, as defined by the Federal Transit Administration, and commercial driver's license (CDL) drivers subject to the Federal Highway Administration are required to follow the County drug testing policy requirements for post accident testing.

2) *Accident review.* Accidents shall be reviewed as follows:

- a) The Risk Manager shall review each accident where property damage, personal injury, or death occurs and determine the preventability and severity of the infraction and determine the necessary corrective action. The Risk Manager shall provide a written report within 30 days to the department head or division manager.
- b) The review and consideration of a case by the Risk Manager may include, but is not limited to:
 - i) The past driving record of the driver.
 - ii) The report of the investigating officer.
 - iii) The driver's report pursuant to County policy.
 - iv) Oral presentation by the driver, if needed or requested.
 - v) Supporting materials or the testimony of witnesses, if warranted.
 - vi) The department head's or the designated representative's report of the accident pursuant to County policy.

3) *Supporting material or witnesses.* A driver may present supporting material or witnesses to the Risk Manager to assist in the interpretation of the accident.

4) *Suspension of driving duties.* Drivers subject to this article may be suspended by the department head or designee or Risk Manager from driving duties, pending an investigation of each incident/accident.

5) *Penalty.* Upon finding that a driver who is an employee is involved in a preventable accident, the Risk Manager shall discuss the findings with the Human Resources Director. The Human Resources Director shall recommend to the department head or designee the appropriate disciplinary action based on section 28-162. If a designated volunteer is involved in a preventable accident, the Risk Manager shall make recommendations for appropriate action to the department head or division manager.

6) *Drug testing.* Certain County drivers are subject to the requirements of the County drug testing policy. Nothing in this policy shall alter any employee's responsibilities under the County drug testing policy.

(Ord. No. 2006-10, 8-21-2006)

Secs. 28-337—28-365. - Reserved.

ARTICLE XI. - TRAVEL POLICY FOR COUNTY EMPLOYEES OR OFFICIALS

[Sec. 28-366. - Purpose.](#)

[Sec. 28-367. - Definitions.](#)

[Sec. 28-368. - Guidelines.](#)

[Sec. 28-369. - Transportation.](#)

[Sec. 28-370. - Subsistence.](#)

[Sec. 28-371. - Reimbursement procedures.](#)

[Secs. 28-372—28-400. - Reserved.](#)

Sec. 28-366. - Purpose.

1) The intent of this article is to make uniform provision for payment or reimbursement of necessary expenses of County employees or officials of the County who are required to travel within or without the County boundaries in the performance of their duties and in the interest of County affairs.

2) It is the County's intent to allow adequate, comfortable accommodations for employees or officials who are required to travel on County business. It is expected that employees or board members shall use discretion and good judgment in spending County funds. Use of first class sections of airplanes is prohibited unless prior approval by the County Manager is obtained. Resort hotels, luxury restaurants, and items of like nature are usually considered to be in excess of normal business needs and are not acceptable under this article. Employees and board members shall be responsible for unauthorized costs and any additional expenses incurred for personal preference or convenience. Each employee is expected to be familiar with and abide by County policy, and willful violations may result in disciplinary action, including possible dismissal.

(Code 1995, § 276.01)

Sec. 28-367. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Authorizing party means the individual authorized by the County Manager or the department head to approve or disapprove travel requests, cash advance requests, and travel reimbursement requests.

Mileage reimbursement means the amount to be reimbursed to an employee for use of a privately owned vehicle, which is based on actual miles driven. The amount reimbursed shall reflect the same per-mile amount as authorized by the Internal Revenue Service.

Necessary expense means all reasonable charges incurred by an employee or official caused by travel in the interest of the County, including transportation, lodging, meals, and related incidental expenses. It does not include fines, illegal expenses, laundry charges, or similar personal expense.

Non-County employees means non-County employees traveling on official business whose expenses are paid by the County who are subject to this article, including subsistence allowances,

to the same extent as County employees. Travel expenses for members of a nonemployee's family are not eligible to be paid by the County. Travel advances shall be made to non-County employees (board members) via the department heads. The department heads are ultimately responsible for the advances and for communicating County policies to the individuals involved.

Requesting party means the employee or official who shall be reimbursed for travel costs incurred while conducting County business.

Subsistence means costs incurred during travel for lodging and meals, including tips.

Transportation means costs incurred for travel by automobile, taxi, rental car, bus, train or plane. It includes tolls, parking fees, and tips for the handling of baggage.

Travel means going from the normal job location to conduct County business in another location and returning to the workplace.

Employee expense report, local, means a form provided for the traveler to fill out for local daily travel. It should list all mileage for which reimbursement is requested. This daily mileage reimbursement request should be turned in within 30 days after the travel period involved. This form shall also be used to report special local travel.

Employee expense report, overnight travel, means a form provided for the traveler to fill out upon the completion of a specific trip, within ten days after the travel period ends, for which the reimbursement is being requested. It should list all mileage, private or public transportation, lodging, meals and other expenses which are reimbursable. Receipts for lodging, commercial travel, meals and other expenses are required.

(Code 1995, § 276.02(A))

Cross reference— Definitions generally, § 1-2.

Sec. 28-368. - Guidelines.

The following guidelines shall be used for the purposes of this article:

1) *Travel authorization and types of travel.* Guidelines for travel authorization and types of travel are as follows:

a) *Responsibility.* The respective department head or division manager is responsible for the administration of this article, including determining that a sufficient unexpended travel budget to reimburse all expected costs of travel exists, except for travel or expenses not covered by this policy. The approving authority for this exception is the County Manager.

b) *Authorization.* Authorization of travel requests shall be based upon need and cost/benefit of travel as determined by the authorizing party.

c) *Local travel.* County employees who by the normal nature of their duties are required to travel regularly within the County and are individually authorized by the appropriate department head or division manager are eligible for reimbursement for transportation expense.

d) *Special local travel.* County employees who, in the interest of the County and with department head or division manager approval, travel to conferences and meetings within the County may be reimbursed for the following:

- i) Transportation cost.
- ii) Meals, subject to suggested maximum reimbursement rates that are a part of the meetings.
- iii) Necessary incidental expenses.

e) *Travel outside County.* Approved travel expenses outside the *County* for *County* purposes in the best interest of the *County*, for training, conferences, professional meetings, work assignments, and the like, may be reimbursed, to the limits of the policy, for the following:

- i) Transportation cost.
- ii) Meals, subject to suggested maximum reimbursement rates.
- iii) Lodging.
- iv) Necessary incidental expenses.

f) *Extraordinary travel or cost.* For travel not covered by this article where the travel is in the best interest of the County, the department head or the County Manager may approve the reimbursement of actual cost. These cases should be rare.

g) *Travel advance.* Travel advances shall be settled separately from all other travel.

2) *Procedure, arrangements, accommodations, travel advances, and vehicle allowance.* The procedure, arrangements, accommodations, travel advances, and vehicle allowance shall be in accordance with the following:

a) All arrangements for travel must be approved by the authorizing party. The requesting party is encouraged to reserve transportation and lodging in advance, when possible.

b) The requesting party is encouraged to travel with other employees and officials of the County and representatives of other government units when possible. The requesting party shall be reimbursed for actual costs incurred only, subject to the suggested guidelines established by section 28-369

c) If the trip is eligible for a travel advance, the employee should make a written request, sufficiently in advance, to allow the request to be processed and a check issued. The department head or division manager shall approve or disapprove the travel advance request and forward the request to the Finance Department for payment. After the travel is completed, an employee expense report shall be completed by the traveler, approved by the department head or division manager and forwarded to the Finance Department for settlement, within ten working days after completion of the trip. The settlement should include any money advanced in excess of the actual

expenses approved on the employee expense report. Any funds due the employee shall be paid at the next regular payment period by the Finance Department. Any amount advanced and subject to be returned to the County by the employee may be deducted from the pay due the employee if the advance is not settled timely or if the employee expense report is sent in without the excess funds attached.

d) Employees or officials who travel short distances within the County in their personal vehicles each month to conduct County business may be given a travel allowance to cover the cost of such travel. A travel allowance shall not be used to supplement the salary of an employee. A travel allowance shall serve as a reasonable reimbursement for estimated travel costs. Travel allowances shall be reported as compensation on Form W-2 for employees and on Form 1099 for nonemployees. Allowances paid to employees are subject to federal and state withholding requirements, as well as social security withholding and matching requirements, to the extent that the sum of travel allowances and salary does not exceed the social security ceiling. A travel allowance shall be authorized by the County Manager, who shall evaluate the need for the allowance and the estimated costs and benefits of issuing a travel allowance. A travel allowance for the County Manager shall be authorized by the Board of Commissioners. Documented mileage that is outside the County shall be paid at 73 percent of the County-approved reimbursement rate.

(Code 1995, § 276.02(B))

Sec. 28-369. - Transportation.

1) *Reimbursement costs.* All necessary transportation used pursuant to this article shall be obtained at the most economical rate available. Reimbursements shall be made for actual costs that are incurred and receipt supported. The cost of travel from the point of departure (normal job location or the personal residence) to the trip's end (normal job location or the personal residence) is a reimbursable cost. This includes the cost of taxi service and parking fees.

2) *Vehicles.* Use of vehicles shall be in accordance with the following:

a) *Personal automobile.* A requesting party may use his personal automobile for travel and be reimbursed at the approved rate, with department head approval.

b) *County vehicles.* County automobiles may be used for any authorized travel. The requesting party must obey all laws of the jurisdiction in which the automobile shall be used for the purpose of conducting County business only. A minimal amount of personal use is allowed, such as driving the automobile to and from lunch or dinner. Non-County employees may accompany County employees if they have a business interest in the travel.-

c) *Rental vehicles.* A rental vehicle shall be used when it is determined that no other mode of transportation is as economical or practical. A rental automobile should be used for business purposes only. A minimal amount of personal use, such as driving to and from dinner, shall be permitted. Use of a rental automobile must be approved in advance.

3) *Local transportation.* Local transportation costs incurred while on out-of-town business shall be reimbursed. The most economical and reasonable form of transportation shall be used. Receipts shall be obtained, when possible, and submitted with travel reimbursement requests.

(Code 1995, § 276.03)

Sec. 28-370. - Subsistence.

1) *Lodging*. Subject to the restrictions noted in subsection 3) of this section, lodging costs for employees under this article shall be reimbursed at the actual amount incurred. Receipts for lodging costs must be submitted with the employee expense report. The lodging rate is limited to the lowest available single-room rate when an employee is traveling with his spouse and children.

2) *Meals*. Meals shall be reimbursed as follows:

- a) Subject to the restrictions noted in subsection 3) of this section, three meals shall be reimbursed at actual cost.
- b) Meals served as part of a convention or conference shall be reimbursed at actual cost. Documentation of actual cost must be attached to the employee expense report when requesting reimbursement.

3) *Lodging and meals*. Lodging and meals shall be reimbursed as follows:

- a) Guidelines for reimbursement rates for a 24-hour period for travel within this state are as follows:
 - i) Breakfast: \$7.00.
 - ii) Lunch: \$10.00.
 - iii) Dinner: \$18.00.
 - iv) Reserved.
 - v) Lodging: conference rates or other reasonable rate.
- b) Tips and taxes are considered to be included in the meal rates in subsection 3) a)
- c) Employees must obtain actual meal receipts in order to be reimbursed. If there is no receipt, no reimbursement shall be paid. The reimbursement rates for travel may be waived by the department head or the County Manager, when actual meal costs for the locations involved exceed the suggested maximums.
- d) The lodging shall be reimbursed at the conference rates or other reasonable rate.

4) *Other costs*. Other costs shall be reimbursed as follows:

- a) Long distance personal telephone calls are not reimbursable. Phone calls for official County business are reimbursable expenses.
- b) Receipt-supported registration fees for a conference or convention shall be reimbursed.
- c) Movies, including pay TV movies, theater tickets, tours, and all other forms of entertainment, are not reimbursable.
- d) Alcoholic beverages are not reimbursable.

(Code 1995, § 276.04; Ord. No. 2007-18, 10-1-2007)

Sec. 28-371. - Reimbursement procedures.

1) *Submitting employee expense reports.* Employee expense reports for travel conducted pursuant to this article shall be submitted in accordance with the following:

a) A requesting party shall complete an employee expense report and attach receipts for expenses as required and submit it to the authorizing party no later than ten working days after returning from travel. Advances shall be deducted from reimbursable costs.

b) A requesting party submitting a falsified employee expense report shall be subject to disciplinary action. The authorizing party or Finance Director who approves an employee expense report which he knows to be false shall be subject to disciplinary action.

2) *Approval and processing of reimbursement requests.* The procedure for approval and processing of reimbursement requests is as follows:

a) An employee expense report shall be submitted to the authorizing party for approval. After the approval by the authorizing party, the employee expense report should be forwarded to the Finance Department.

b) The Finance Department shall determine that the employee expense report has been properly approved, that it is mathematically correct, and that requested reimbursements match submitted receipts and are within the limits set by this article. If an error in the reimbursement request is found, the requesting party shall be informed and the error shall be corrected before payment is made.

(Code 1995, § 276.05)

Secs. 28-372—28-400. - Reserved.

ARTICLE XII. - VETERANS SERVICE OFFICER ^[52]

⁽⁵²⁾ **Cross reference**— Officers and employees, § 2-86 et seq.

⁽⁵²⁾ **State Law reference**— Veterans generally, G.S. ch. 165.

[Sec. 28-401. - Employment authorized.](#)

[Sec. 28-402. - Definitions.](#)

[Sec. 28-403. - Rules and regulations authorized.](#)

[Sec. 28-404. - Duties.](#)

[Sec. 28-405. - Notarial authority.](#)

Sec. 28-401. - Employment authorized.

1) The Board of Commissioners is authorized and empowered to employ a County Veterans

Service Officer and pay the service officer such salary as the Board may consider just and fair and to furnish the service officer the necessary office space, assistants, supplies, and equipment to enable the service officer to perform efficiently the duties of the service officer's employment.

2) In selecting the service officer and other personnel, preference shall be given to applicants who are eligible veterans, as defined by G.S. 128-15(b)(3), in furtherance of the policy of the state that, in appreciation for their service to this state and this country during a period of war and in recognition of the time and advantage lost toward the pursuit of a civilian career, veterans shall be granted preference in public employment.

(Code 1995, § 250.02)

Editor's note— In accordance with G.S. 153A-8 by Resolution No. 1979-168, adopted October 1, 1979, the Board of Commissioners authorized the County Manager to appoint, suspend, and remove the County Veterans Service Officer. On December 21, 1982, the Board of Commissioners authorized the County Manager to see that the duties and any other authority promulgated by the Veterans Service Officer are in accordance with this section and article and in accordance with the provisions of this chapter.

Sec. 28-402. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

A period of war includes World War I (April 16, 1917 through November 11, 1918); World War II (December 7, 1941, through December 31, 1946); the Korean Conflict (June 27, 1950, through January 31, 1955); the period of time between January 31, 1955, and the end of the hostilities in Vietnam (May 7, 1975); the Persian Gulf War (August 2, 1990, through as set by law or Presidential proclamation); or any other campaign, expedition, or engagement for which a campaign badge or medal is authorized by the United States Department of Defense.

Eligible veteran means:

- 1) A veteran who served during a period of war;
- 2) The spouse of a disabled veteran;
- 3) The surviving spouse or dependant of a veteran who dies on active duty during a period of war either directly or indirectly as the result of such service;
- 4) A veteran who suffered a disabling injury for service-related reasons during peacetime;
- 5) The spouse of a veteran described in subsection 4) of this definition; or
- 6) The surviving spouse or dependant of a person who served in the armed forces of the United States on active duty, for reasons other than training, who dies for service-related reasons during peacetime.

Veteran means a person who served in the armed forces of the United States on active duty, for reasons other than training, and who has been discharged under other than dishonorable conditions.

(Code 1995, § 250.03)

Cross reference— Definitions generally, § 1-2.

Sec. 28-403. - Rules and regulations authorized.

The Board of Commissioners is authorized and empowered to make and promulgate all rules and regulations governing the duties of the Veterans Service Officer and assistants and the operation of the office provided for in this article as it may deem necessary to cooperate with the state and federal governments in all matters relating to benefits for active and discharged members of the United States armed services and their families.

(Code 1995, § 250.04)

Sec. 28-404. - Duties.

It shall be the duty of the Veterans Service Officer to:

- 1) Acquaint himself with the federal, state and local laws enacted for the benefit of members of the armed forces, their families and dependents.
- 2) Collect data and information as to facilities and services available to such persons with regard to education, health and medical care, rehabilitation, housing, employment and all other matters of a similar nature.
- 3) Assist veterans, their families and dependents in the presentation of proof and establishment of claims for any benefits they may have under federal, state or local laws.
- 4) Perform such additional duties as the Board of Commissioners may direct.

(Code 1995, § 250.05)

Sec. 28-405. - Notarial authority.

The Veterans Service Officer shall have a seal of office and shall be authorized to take acknowledgments, administer oaths and affirmations, execute depositions and affidavits, and perform other notarial acts necessary to carry out this article.

(Code 1995, § 250.06)

11. Other Items of Business:

Chair Barnes announced that Betty Cotton, of Hickory, and Catawba County Co-Chair of Vote for Marriage NC, had made a request to the Board to present a resolution in support of the proposed State Constitutional Amendment on Marriage. Ms. Cotton came forward and thanked the Board for the opportunity to speak. She quoted from the proposed amendment "Marriage between one man and one woman is the only domestic union that shall be valid or recognized in the State. This section does not prohibit a private party from entering into contracts with another private party nor does this section prohibit courts from adjudicating the rights of private parties pursuant to such contracts." Ms. Cotton continued with her arguments in support of the amendment and stated it was a pro-marriage amendment, nothing more, nothing less, and the definition of marriage needed to be protected in the State's Constitution. She disputed allegations that the amendment would hurt families and businesses in North Carolina.

After Ms. Cotton read her proposed resolution, Chair Barnes asked if there were any questions. Vice-Chair Lail asked what the difference was between the resolution Ms. Cotton had provided prior to the Board meeting and the one she had given them this evening. Ms. Cotton said the original

resolution was a version that Caldwell County had adopted which included a reference to Senator Dan Soucek and since Senator Soucek did not represent Catawba County, she had removed that reference.

Chair Barnes stated that although there was no actual public hearing scheduled, the Board recognized that there were a number of people with strong feelings regarding this issue and she would open the floor for comments. After noting the number of people who indicated they wanted to speak, Chair Barnes asked that comments be limited to three minutes in duration. Twenty individuals came forward to speak in favor of adopting a resolution in support of the marriage amendment, citing religious beliefs, tradition, family values, effect on the business climate and representation by elected officials of their constituents. Thirteen individuals came forward to speak against the adoption of the resolution, citing discrimination, bigotry, harm to the business climate and families, and the amendment not being a local government issue.

Upon the completion of the public comments, Chair Barnes said she had reviewed the proceedings of the Board over many, many years and the Board had not taken action on resolutions that did not pertain specifically to county government or county services in some way. Additionally, the Board had not taken any action on something that the legislature had put to a vote for every individual. The amendment was on the ballot for May 8th and was not something that would be impacted by the vote of support by the Board of Commissioners. Chair Barnes then asked Counsel to the Board David Hood to speak to the procedural issues and the consequences of any action taken. Mr. Hood stated there was a procedural issue that had nothing to do with the merits of the marriage amendment, one way or the other. The issue was whether the Board of Commissioners, traditionally or in the future, wanted to set a precedent in taking a stance on a political issue simply because a citizen had brought forth a resolution they wanted the Board to adopt. He stated it would be different if the political issue was directly or even indirectly related to county business but he thought it was a concern procedurally that as a Board it acted on a referendum that had nothing to do with county business.

Vice-Chair Lail then made a motion to not adopt any resolution. She continued that historically the Board had not adopted resolutions that did not relate to county government. She said if the Board adopted the resolution, it would be setting a terrible precedent. There was a lot of county business that needed attention and the Board needed to spend its time on those items and its responsibility was to oversee the operations of Catawba County government. Commissioner Hunsucker said he understood what Commissioner Lail was saying but this to him was an atypical situation. He said the Board was voting on something that went to the very core of society and that the Board members were called leaders in the community and this was the time to lead. He continued saying they had to show people they represent that the definition of marriage that has been upheld for thousands of years would continue to be upheld. He added they were not discriminating against anyone. He said he had been told by a judge that they needed a clear definition of what marriage was when they had cases come before them. Commissioner Hunsucker went on to say the three things he asked of himself was if God would be pleased with his decision, and then how that decision would affect his country and then his family. He said if he did not stand up for this he would be letting his God and family down.

Commissioner Isenhower then reminded everyone there was a motion on the table. He said he respected his fellow Commissioners' comments and the motion was whether, as leaders, to weigh in on the marriage amendment. He noted other counties and municipalities had taken a stance on this amendment, so there was precedence. He said he prayed about this and deeply appreciated everyone's thoughts on the issue. He stated he was against the motion to not adopt a resolution.

Chair Barnes said from where she sat, she did not feel she needed to adopt a resolution to support her moral and Christian upbringing. She said this was an issue of having to deal with some things that would be very unpopular and could take a great deal of time away from county business. She continued that she, too, used the three points referred to by Commissioner Hunsucker and she would use her opportunity to vote on this issue and that vote would count, as would anyone's vote on the amendment. She then stated she could express her beliefs as a person without putting the

next Commission in a position to have to fend and deal with resolutions that were not related to county business. She further stated the Board had never adopted a resolution that was brought to it by an individual and the Board had historically crafted its own resolutions. She said she was prepared to take action on the motion.

Commissioner Isenhower stated the Board had acted on a resolution brought to it, to name a bridge after a fallen state trooper, so it could not be said the Board had never adopted a resolution that did not relate to county business. Chair Barnes responded the State required the county or counties in which the bridge sat to weigh in on the naming of the bridge so it actually was county business. Commissioner Isenhower went on to say he supported the resolution as Commissioner Hunsucker did. He said he questioned the reasoning that adopting this resolution would affect businesses. He stated he believed if someone wanted to bring a business to Catawba County, they would look at the County's tax rate and regulations before they would they would worry about this resolution. He went on to say in supporting this amendment, he was not considering anyone less worthy, he was not dehumanizing anyone nor was he considering anyone a second class citizen. He continued saying that if those allegations were taken out of the vocabulary or out of the discussion, then people would not get the message.

After it was questioned whether a substitute or amended motion should be made, County Attorney Bechtel advised there was a motion on the table that needed to be dealt with first. Chair Barnes asked if there was a call for the question and Commissioner Beatty called for the question. Chair Barnes asked all in favor of not adopting a resolution supporting the marriage amendment. Chair Barnes and Vice-Chair Lail voted in favor; Commissioners Hunsucker, Isenhower and Beatty voted against. The motion failed.

Commissioner Hunsucker then said they could now make a motion to adopt the resolution in support of the marriage amendment, but there was a question if the resolution should be the one the Board had drafted or the one that had been presented by Betty Cotton at this meeting. He thought both pretty much said the same thing. After reviewing the resolutions, Commissioner Isenhower made a motion to adopt the resolution presented by Ms. Cotton at the meeting to support the North Carolina Marriage Protection Amendment. The following resolution was read into the record by Commissioner Hunsucker:

RESOLUTION NO. 2012-
RESOLUTION
TO SUPPORT THE NORTH CAROLINA MARRIAGE PROTECTION AMENDMENT

WHEREAS, marriage as the union of one man and one woman has served as the foundation of our society since before North Carolina was a state; and

WHEREAS, marriage is not merely a private contract but a social institution of great public value and concern, benefitting the married couple, the children, our economy and the State as a whole; and

WHEREAS, the North Carolina Marriage Protection Amendment simply allows voters to protect our state's current definition of marriage as the union of one man and one woman by putting it into the Constitution; and

WHEREAS, North Carolina is the only state in the South that has not protected marriage in its Constitution; and

WHEREAS, every state in the country that has allowed the people to vote, 30 in all, has protected marriage in its Constitution as the union of one man and one woman, including North Carolina's bordering states of Virginia, Tennessee, Georgia and South Carolina; and

WHEREAS, the Marriage Protection Amendment reads, "*Marriage between one man and one woman is the only domestic legal union that shall be valid or recognized in this State. This section*

does not prohibit a private party from entering into contracts with another private party; nor does this section prohibit courts from adjudicating the rights of private parties pursuant to such contracts”.

NOW, THEREFORE, BE IT RESOLVED that the Catawba County Board of Commissioners endorses the Marriage Amendment to the North Carolina Constitution which states that the only domestic legal union that is valid or recognized in North Carolina is marriage between one man and one woman.

BE IT FURTHER RESOLVED that the Catawba County Board of Commissioners encourages voter participation on this important issue to be voted upon on May 8th, 2012.

Adopted this the 16th day of April, 2012.

Commissioner Isenhower clarified that his motion was to adopt this resolution. Chair Barnes stated the Board had a motion before them. She said she was unwilling to depart from the Board's actions in the past to impose its own resolutions, and for that reason she would not vote for the motion. Commissioners Hunsucker, Isenhower and Beatty voted in favor of the motion; Chair Barnes and Vice-Chair Lail voted against the motion; the motion carried.

12. Attorney's Report: None.
13. Manager's Report: None.
14. Adjournment. The meeting adjourned at 10:31 p.m.

Katherine W. Barnes, Chair
Catawba County Board of Commissioners

Barbara E. Morris
County Clerk